

**(2003) 02 PAT CK 0079**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 11459 of 1998**

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|----------------------------------|------------|
| Saheb Singh @ Saheb Prasad Singh | APPELLANT  |
| Vs                               |            |
| State of Bihar and Others        | RESPONDENT |

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**Date of Decision :** 17-02-2003

**Acts Referred:**

Constitution of India, 1950 — Article 14

**Citation :** (2003) 2 PLJR 145

**Hon'ble Judges :** Narayan Roy, J

**Bench :** Single Bench

**Advocate :** Teg Bahadur Singh, for the Appellant; JC to AAG I for State, for the Respondent

**Final Decision :** Allowed

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## Judgement

Narayan Roy, J.—Heard counsel for the parties.

2. This writ application is directed against the order, as contained in Annexure 5 dated 14.6.1987, whereby and where under the Petitioner has been dismissed from service.

3. Learned Counsel appearing on behalf of the Petitioner submits that the Petitioner was made an accused in a criminal case pertaining to burglary etc. and at the same time, he was also proceeded against depart mentally for the same self charge.

4. Inquiry report was submitted in the departmental proceeding exonerating the Petitioner. However, Respondent No. 3, the Commandant, BMP-15, imposed a punishment of stoppage of two annual increments. The matter, however, was examined by the Director General of Police-cum-Inspector General of Police, Government of Bihar, Respondent No. 2, in exercise of power under Rule 853A(a) of the Bihar Police Manual and reviewed the order of punishment and passed an order of dismissal of the Petitioner from service on account of pendency of the criminal case against the Petitioner.

5. Learned Counsel appearing on behalf of the Petitioner further submits that the Director General of Police-cum-Inspector General of Police, Respondent No. 2, has not afforded an opportunity of hearing to the Petitioner for disagreeing with the Inquiry report and, thus, the whole proceeding vitiates in view of Article 14 of the Constitution. Now learned Counsel appearing on behalf of the Petitioner submits that the Petitioner has been acquitted of the criminal charge vide judgment as contained in Annexure 6 dated 9.7.1998, and therefore, the order of dismissal is not sustainable on non-existing ground.

6. Learned Counsel appearing on behalf of the State does not dispute these aspects of the matter and submits that after acquittal of the Petitioner by the criminal court, the matter may again be examined by the disciplinary authority.

7. I find from the materials on record that the Petitioner was dismissed from service only on account of pendency of the criminal case and the matter was reviewed by the apex body in terms of Rule 853A(a) of the Bihar Public Manual.

8. Since the Petitioner has been acquitted by the criminal court for the criminal charges, the matter, in my opinion requires fresh consideration by the disciplinary authority, who passed the order of dismissal of the Petitioner from service.

9. In the result, this application is allowed and the order of dismissal, as contained in Annexure 5, is set aside, and the matter is remitted back to Respondent No. 2, the Director General of Police-cum-Inspector General of Police, Government of Bihar, for consideration of the same in accordance with law.