

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1371 of 2013

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Manoj Paswan Son Of Nago Paswan Resident Of Village - Rupany, P.S. -
Chautham, Dist. - Khagaria, Presently Posted As Chaukidar, Circle No. -2,
Thana - Chautham, Dist. - Khagaria **Petitioner**
Versus

1. The State Of Bihar
 2. The District Magistrate, Khagaria
 3. The Superintendent Of Police, Khagaria
 4. The Sub Divisional Officer, Khagaria
 5. The Circle Officer, Chautham, Khagaria
 6. The Officer-In-Charge, Chautham, Khagaria
 7. Chhote Lal Das S/O - Late Phulo Das R/O Village - Bora Kothi, Bharpura,
P.O. - Bharpura, P.S. - Chautham, Dist. - Khagaria **Respondents**
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Appearance :

For the Petitioner/s : Mr. Nand Kumar, Advocate
For the State : Mr. Narendra kumar Singh, AC to GA2
For the Respondent no.7 : Mr. Rajendra Pd. Singh, Sr. Advocate and
Mr. Mukesh Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

6 01-12-2015 Heard learned counsel for the petitioner, the State and
respondent no.7.

2. The petitioner prays for setting aside order dated
21.2.2009 (Annexure 2), whereby respondent no.7 has been
appointed as a Dafadar of Circle no. 2, Police Station
Chautham, District Khagaria.

3. It appears from order dated 21.2.2009 that the post
of a Dafadar fell vacant in Circle no. 2/1 within Panchayat
Saraiya Police Station Chautham, district Khagaria. As such, on
recommendation of the District Selection Committee and the
Superintendent of Police, Khagaria, respondent no.7 (Chotelal



Das) Chaukidar of Circle no.3/13, Police Station Chautham was appointed as a Dafadar of Circle no. 2/1. While appointing respondent no.7 as Dafadar, the District Magistrate observed that as no eligible Chaukidar was available in Circle no.2/1 of Panchayat Saraiya, respondent no.7 was being appointed as Dafadar.

4. The petitioner has challenged the appointment of respondent no.7 on the ground that a Chaukidar from a different circle cannot be appointed as a Dafadar of the circle in question. In support, he refers to Rules 28 of the Bihar Chaukidari Manual (herein after referred to as 'the Manual').

5. Counsel for the State submits that Rule 28 of the Manual does not create any absolute bar on appointment of a Dafadar from another circle in appropriate cases, provided that soon after appointment, the newly appointed Dafadar must take up such permanent residence within that circle, as no person residing outside a union shall be appointed a dafadar, if a suitable resident within the union is available).

6. Mr. Rajendra Prasad Singh, learned Senior counsel appearing for respondent no.7 submits that the posts of Chaukidar and Dafadar, for the first time, were brought under Government employment in the year 2006 and a Rule for



recruitment and promotion in this regard was notified on 25.8.2006 by order of the Governor of Bihar under Article 309 of the Constitution of India. Prior to the Rule, 2006 the matter relating to Chaukidar/Dafadar were regulated by executive instructions, compiled as Chaukidari Manual. He submits that as per the provisions of the Manual, a Dafadar would be appointed from amongst Chaukidars on basis of recommendation of the District Selection Committee on basis of their work efficiency. Even, the Manual did not prohibit appointment of a Dafadar from amongst Chaukidars of another circle in case of unavailability of a suitable candidate in that particular circle. Now as per 2006, Rules the vacancy of a Dafadar is to be filled up from Chaukidars at the district level on basis of their satisfactory service and work efficiency.

7. It appears that prior to 2006, Chaukidars were recruited and then promoted to the post of Dafadar on basis of executive orders issued from time to time as compiled in Chaukidari Manual. As per Rule 28 of the Manual, on which the petitioner has relied, Dafadars generally were to be appointed from the concerned circle. However, there was no bar to appointment of a Chaukidar from another circle as a Dafadar of that circle, if no suitable Chaukidar is available in that circle.



The only condition attached to that Rule was that such newly promoted Dafadar must take up permanent residence within a reasonable time after his appointment. The executive instructions with respect to recruitment and promotions of Chaukidar, etc stands superseded by Rules, 2009 framed under Article 309 of the Constitution of India, being Bihar Chaukidari Cadre Rules, 2006. As per Rules, 2006 the District Level Committee, constituted under Rule 5, would consider recruitment of Chaukidars and promotions from amongst them to the post of Dafadars. Rule 10 states that the vacancies to the posts of Dafadar would be filled from such other Chaukidars at the District level on basis of seniority cum merit. Now there is no constraint that the vacancy of a Dafadar of a particular circle is to be filled from Chaukidars of that circle alone. I further find from the impugned order dated 21.2.2009 of the District Magistrate that the Selection Committee recommended the name of respondent no.7, who belonged to Circle 3, as there was no suitable Chaukidar from Circle 2 to be appointed as Dafadar. It further appears from the impugned order that the eligibility of both the petitioner and respondent no.7 was equal and as such the latter being senior in age, was accorded preference over the petitioner as per the procedure and practice,

which cannot be said to be arbitrary or unreasonable.

8. As such, I do not find any infirmity in the impugned order appointing respondent no.7 as Dafadar of Circle no.2. The writ petition is accordingly dismissed.

(Samarendra Pratap Singh, J)

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