

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5225 of 2001

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1. Saroj Kumar S/o Sri Ravinda Prasad Yadav, resident of village + P.O. Hathiaur, P.S. Sultanganj District-Bhagalpur.
 2. Nilesh Kumar S/o Bhavesh Prasad Yadav of village-Puniyarachak, P.O. Patan, P.S. Naya Ramnagar, District- Munger

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The D.G.-cum-I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, Central Range, Patna.
4. The Senior S.P., Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Adv.
Ms. Maruti Kumari, Adv.
For the State : Mr. Udai Shankar Singh, A.C. to G.A.-2

For the Respondent/s : Mr. Ashok Kumar Sinha, Adv.
Mr. Shyam Sunder Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 24-07-2015

This is an application seeking quashing of an order dated 07.08.2000 passed by the Senior Superintendent of Police, Patna whereby the petitioners' appointment as Constable, said to have been fraudulently obtained, has been cancelled and they have been dismissed from service.

2. I have heard learned counsel for the

petitioners and learned counsel appearing on behalf of the respondents-State of Bihar.

3. It appears that pursuant to Advertisement No. 01/98, the petitioners had applied for appointment to the Post of Constable. It is the case of the petitioners that they participated in physical test and other tests, held by the Selection Committee and were declared successful. It is not in dispute that pursuant to their appointment, they joined the posts on 06.12.1999. By an order issued on 07.08.2000, however, they came to be dismissed from service on the ground that they had obtained their employment fraudulently. Though the letter dated 07.08.2000 has not been annexed with the writ application, the same has been brought on record by way of Annexure-A to the counter affidavit filed on behalf of the respondents. It is the stand of the State-respondents that as on the date when the order dated 07.08.2000 was passed, the petitioners were on probation and therefore, in terms of the provisions of Police Manual, no formal show cause notice was required to be issued to the petitioners before removing them from service.

4. I have perused the order dated 07.08.2000.



The said order cannot be said to be an order simpliciter terminating the petitioners' service from the Post of Constable. They have been dismissed from service on the ground of fraud, said to have been committed by them in course of their selection. The order cannot be held to termination simpliciter inasmuch as it casts stigma on them in obtaining the employment fraudulently. In such circumstance, the respondents were obliged to give them an opportunity of hearing.

5. The order issued by Memo No. 1472 dated 07.08.2000 passed by the Senior Superintendent of Police, Patna is, accordingly, quashed. The respondents would be required to issue show cause to the petitioners, if they intend to take any action on the ground that the petitioners had obtained the employment by fraud. It is, however, indicated that quashing of the order dated 07.08.2000, in the facts and circumstances of the present case, will not result in automatic reinstatement of the petitioners in service. The petitioners' reinstatement will depend upon the final order to be passed by the Senior Superintendent of Police, Patna pursuant to remand by the present order. The

Disciplinary Authority will be required to pass appropriate order within six months of the date of receipt/production of a copy of this order after giving the petitioners due opportunity of being heard.

6. This application is allowed but with the observation, as above.

7. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J.)

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