

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1631 of 2014

IN

Civil Writ Jurisdiction Case No. 7650 of 2009

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Madhu Kant Ranjan, son of Shri Suresh Prasad Sah, resident of Village - Tarapur
(Behind Thana) , Police Station - Tarapur , District - Munger.

.... Appellant

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna.
3. The Deputy Inspector General, Human Rights, Bihar, Patna.
4. The Deputy Inspector General, Head Quarter, Bihar, Patna.
5. The Deputy Inspector General, Munger.
6. Mr. Ravindra Shankaran, son of not known to the appellant, the then
Superintendent of Police-cum-Chairman Constable Selection Committee, Munger.

.... Respondents

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Appearance :

For the Appellant : Mr. Y. V. Giri, Sr. Advocate
Mr. S.M. Ashraf, Advocate

For the Respondents: Mr. Mrigendra Kumar, AC to GA11

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-02-2015

I.A. No.9235 of 2014

This interlocutory application under Section 5 of the Limitation Act is filed with a prayer to condone the delay of 3 years and 55 days in preferring this appeal. The reason pleaded in the application is that on account of the fact that the appellant being unemployed, he did not have any financial support and by the time he could arrange the resources, there was delay.

2. Heard Mr. Y.V. Giri, learned senior counsel for the appellant and Mr. Mrigendra Kumar, learned Assistant Counsel to the

Government Advocate for the State.

3. It is no doubt true that the delay is enormous. The fact however remains that the appellant is an unemployed person who had to spend a lot in fighting three rounds of litigation in the context of his non-selection. We are inclined to condone the delay, having regard to the poor financial background of the appellant. Accordingly, we condone the delay. The interlocutory application is allowed.

L.P.A. No.1631 of 2014

4. This appeal demonstrates an unfortunate saga of an unemployed person in making efforts to get him selected as a Constable.

5. Munger Unit of the Bihar State Police initiated steps for selection of Constables way back in 2004. Selection process picked up momentum only in the year 2006. It is stated that the appellant was selected and his name was included in the panel forwarded by the Selection Board, in its communication dated 08.09.2007 to the Deputy Inspector General of Police, Munger. However, the name of the petitioner was not cleared on the ground that his NCC certificate cannot be acted upon and he was not appointed.

6. The petitioner submitted an application under the provisions of Right to Information Act to know the reasons for his non-selection. The Selection Board replied through letter dated



23.06.2008 stating that though the appellant was awarded 17 marks, including 5 marks for NCC 'B' and selected as a Constable, the same was not cleared by the DIG. In this background, the appellant filed CWJC No.5431 of 2008. The same was disposed of on 09.02.2009 directing the respondents to take an appropriate decision within six weeks. In compliance with the said direction of the learned Single Judge, the 5th respondent-DIG passed an order dated 01.04.2009 rejecting the claim of the appellant. Thereupon he filed CWJC No. 7650 of 2009. The learned Single Judge, who heard the writ petition, dismissed the same through the order dated 01.10.2010. Hence, this appeal.

7. Heard Mr. Y.V. Giri, learned senior counsel for the appellant and Mr. Mrigendra Kumar, learned Assistant Counsel to Government Advocate for the State.

8. Though the advertisement was issued in 2004, the selection was made in 2007. In the advertisement itself, the respondents mentioned that the candidates holding NCC 'B' certificate would be awarded 5 marks. From the information furnished by the Selection Board, it is clear that the appellant was awarded 12 marks for his performance and other accomplishments and 5 marks for his NCC 'B' certificate. With 17 marks awarded to him, the appellant was selected in the first list itself which was prepared on 08.09.2007. The

select list, prepared by the Selection Board was submitted with the 5th respondent for approval.

9. It appears that through communication dated 24.12.2007, the 5th respondent refused to accord the approval for selection of the appellant. Though two rounds of litigation have been fought in this regard, the respondents are not able to place the order dated 24.12.20107 before this Court, even by now.

10. On perusal of the order dated 23.06.2008 it becomes clear that the Selection Committee i.e. 6th respondent awarded 17 marks to the appellant, he was selected as Constable. The only reason mentioned for non-appointment is said to be the objection raised by the 5th respondent. In none of the counter affidavits filed in the writ petition, the reason for differing with the view expressed by the 6th respondent was mentioned.

11. Though a selection by itself does not confer a right upon a person to be appointed, the candidate would certainly acquire certain right to be considered for appointment. Such a right can be taken away only on the basis of valid reasons. In case the 5th respondent opined that there is nothing wrong with the selection of the appellant, he was supposed to call for necessary information from the appellant or the 6th respondent. However, he has unilaterally passed an order on 01.04.2009 virtually setting aside the selection of the



petitioner-appellant. We do not find any justification for the acts and omissions on the part of the respondents, leading to denial of selection or appointment of the petitioner-appellant. We are conscious that almost a decade has elapsed, even since the selection commenced. However, the livelihood of the petitioner, who is otherwise found fit to be appointed, cannot be denied on whimsical or unstated reasons. The name of a person who is included in the list prepared by a selection committee can be omitted only on valid grounds. The appellant has been fighting several rounds of litigation. The delay which has taken place in this behalf at the most, can lead to denial of the wages to the petitioner for the aforesaid period.

12. We, therefore, allow the writ petition and set aside the order dated 01.04.2009. We allow this appeal and the order dated 01.10.2010 passed in CWJC No.7650 of 2009 is set aside. The 5th respondent-D.I.G., Munger shall take into account, the select list forwarded to him on 08.09.2007, which includes the name of the petitioner and take necessary steps for his appointment as Constable. This exercise shall be completed within six weeks from today and on appointment, the petitioner shall be assigned place after the last successful candidate, in the batch. He shall, however, not be entitled to the back wages till the date of appointment. There shall be no order as to costs.

13. The interlocutory application, if any, shall stand disposed of.

(L. Narasimha Reddy, CJ)

(Vikash Jain, J)

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B.T/Md. Ibrarul

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