

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.294 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 17020 of 2012**

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Jitendra Kumar Chaudhary, Son of Sri Raghunandan Chaudhary, Resident of
Mohalla - Tar Bangala, P.O. And P.S. Dehri - On - Sone, District - Rohtas At
Sasaram

.... Petitioner / Appellant

Versus

1. The State of Bihar Through The Chief Secretary, Government of Bihar, Old
Secretariat, Patna
2. The Director General of Police, Bihar, Patna
3. The Director General (Personnel), Bihar, Patna
4. The Commandant - Cum - Chairman, Bihar Military Police Core, Dumraon,
District - Buxar
5. The Superintendent of Police, Buxar, District Buxar

.... Respondents / Respondents

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Appearance :

For the Appellant/s : Mr. Prakash Shrivastava
Mr. Lal Bahadur Singh
For the Respondent/s : Mr. Sumant Kumar Singh
AC to GA 3

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 15-07-2016

The order dated 7th January, 2014 passed by the learned
Single Bench in CWJC No. 17020 of 2012 is the subject matter of
challenge in the present Letters Patent Appeal.

The appellant was selected for appointment as Constable.
He was called upon to appear before the competent authority on 16th
August, 2012 through registered A.D. letter dated 6th August, 2012
which was dispatched on 8th August, 2012. Thereafter notice was

published in the newspaper on 12th August, 2012 calling upon the candidates to report with the necessary documents on 16th August, 2012. The appellant did not appear on 16th August, 2012 and consequently he was not appointed.

The grievance of the appellant is that the registered letter was received by him on 17th August, 2012, therefore, there is sufficient reason for him not to report on 16th August, 2012 and that the respondents should be directed to consider the case of the appellant in accordance with law.

On the other hand, the stand of the State is that the registered letter was sent as an abundant caution as a public notice was also published in the Hindi newspaper for its wide publicity. It was, therefore, incumbent upon the appellant to report on 16th August, 2012. Still further, the registered notice carries presumption of delivery in normal course in terms of Section 27 of the General Clauses Act. Therefore, even if notice has been received subsequent to the relevant date, it will not confer any actionable claim upon the appellant.

We find that omission on the part of the appellant not to report on the date fixed is detrimental to his interest but the said omission cannot be ignored now. There was wide publicity of notice given to all candidates to appear on 16th August, 2012, but the

petitioner failed to appear on the relevant date. The registered notice was sent as abundant caution and is not as a part of the conditions required to be complied with before appointment. Since the registered letter was sent on 8th August, 2012, it would be deemed to have been delivered in ordinary course in terms of Section 27 of the General Clauses Act as well.

In view thereof, we do not find any error in the order of the learned Single Judge which may warrant any interference in the present Letters Patent Appeal.

The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

mrl.

AFR/NAFR	NAFR
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