

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.391 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 19875 of 2012

Along with

Interlocutory Application No.1834 of 2015

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Sita Nandan Paswan, S/O - Chhotan Paswan, R/O-Village- Kosiyama, Sikariya,
P.S.- Pali, District- Jehanabad.

.... Petitioner- Appellant

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Inspector General of Police, Central Range, Bihar, Patna.
3. The Deputy Inspector General of Police, Central Zone, Patna.
4. The Senior Superintendent of Police, Patna.

.... Respondents-Respondents

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Appearance :

For the Appellant : Mr. Rajeev Kumar Singh, Advocate
Mr. Priya Ranjan Singh, Advocate

For the Respondents : Mr. Syed Arshad Alam, S.C.-3 with
Mr. Fakhruddin Ali Ahmad, Advocate

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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: 12-05-2016

Re.: Interlocutory Application No.1834 of 2015

The application is for condonation of delay of 4 months and
17 days in filing of the present appeal.

2. For the reasons mentioned in the application, we find that
sufficient cause is shown by the appellant to condone such delay.

Consequently, the delay in filing of the present Letters Patent Appeal is condoned.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.391 of 2015

The order dated 18th February, 2014 passed by the learned Single Bench in CWJC No.19875 of 2012 is subject matter of challenge in the present Letters Patent Appeal. In the aforesaid writ application, the challenge to the discharge of the appellant during the probation period was not interfered with.

2. The process of appointment as constables in the Bihar Police Force was initiated by advertisement (Annexure-2). The last date of the submission of the application was 23rd January, 2010. One of the conditions in the advertisement was that after selection, there shall be character/ antecedents verification of the selected candidates. The appellant was appointed on 22nd October, 2011. The appellant was still on probation, then the report came that the appellant is involved in many criminal cases and, therefore, an order of discharge was passed during the probation period.

3. The learned Single Bench did not find any merit in the writ application and also the argument raised by the appellant that the cases were registered for the reason that the appellant is a trustee of Shaligram Gopalji Shivji and Hanumanjee Thakurbari Trust and the

encroachers of the said trust have lodged false complaint against him.

4. Learned counsel for the appellant relies upon Supreme Court order reported as V. P. Ahuja Versus State of Punjab and others, AIR 2000 SC 1080, to contend that the order of discharge suffers from violation of the principles of natural justice as no notice was served upon the appellant before the order of discharge was passed.

5. We have heard learned counsel for the parties and find no merit in the present appeal. The appellant was on probation after appointment when in terms of the conditions of the advertisement, the antecedents of the appellant were verified and found that he is involved in six cases, out of which at least in three cases, there is direct allegation against the appellant. The cases pertain to Pali P.S. Case No.56 of 2008 dated 22.11.2008 registered for the offences under Sections 147, 148, 149, 379 of the Indian Penal Code and Section 27 of the Arms Act; Pali P.S. Case No.60 of 2009 dated 22.11.2009 registered for the offences under Section 147, 148, 341, 323, 337, 379, 353, 332, 504 and 506 of Indian Penal Code; and Pali P.S. Case No.60 of 2009 dated 18.05.2010 registered for the offences under Sections 147, 148, 149, 307, 379 Indian Penal Code and Section 27 of the Arms Act.

6. In view of the cases registered, two of them, even prior to the advertisement including of an offence under Section 307 of the Indian Penal Code and also of an Arms Act, the conclusion of the learned Single Bench that the appellant cannot be saddled with the

responsibility of a law enforcing person, if he himself is not a law abiding person, cannot be said to anyway unwarranted.

7. The judgment in V. P. Ahuja case (supra) has no application to the facts of the present case as in that case the services were terminated on account of unsatisfactory work. The present is a case which relates to antecedents verification of the selected candidates as per the condition in the advertisement itself. If on verification, it was found that the appellant is involved in number of cases, the action could very well be taken. It is not the case of the appellant that the cases have not been registered against him. The stand is that the cases are motivated. Whether the cases are motivated or not is not relevant at this stage as admittedly, the appellant is accused in three cases, one of them being of an offence under Section 307 IPC and of the Arms Act. Not only there are FIRs, even the report under Section 173 of the Code of Criminal Procedure has been submitted before the competent court of law.

8. In view of the said fact, we do not find any error in the conclusion drawn by the learned Single Bench which may warrant interference by this Court in the present intra court appeal. The Letters Patent Appeal, thus, stands dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
CAV DATE	N. A.
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