

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.419 of 2013
IN

Civil Writ Jurisdiction Case No. 18855 of 2012

- =====
1. The State of Bihar through the Principal Secretary, Home Department, Bihar, Patna
 2. The Director General of Police, Bihar, Patna
 3. The Director General-Cum-Commandant General, Home Guard, Bihar, Patna
 4. Senior Superintendent of Police, Patna

.... Appellants

Versus

1. Mantu Kumar, son of Ajay Prasad resident of village - Dumari, P.O.- Bharthu, District- Jehanabad
2. Randhir Kumar, son of Dinesh Singh resident of village - Pran Bigha, P.S.- Ghushi, District- Jehanabad
3. Shivji Singh, son of Jagdish Singh resident of village - Jagdishpur, P.S.- Ghushi, District- Jehanabad
4. Chairman, Central Selection Recruitment Board (Constable Appointment) Bihar, Patna

.... Respondents

With

Letters Patent Appeal No. 1958 of 2012

IN

Civil Writ Jurisdiction Case No. 18855 of 2012

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Central Selection Board of Constable through its Chairman, Central Selection Board of Constable, Bihar, Patna

.... Appellant

Versus

1. Mantu Kumar S/O Ajay Prasad, resident of Vill.- Dumari, P.O.- Bharthu, Distt.- Jehanabad
2. Randhir Kumar S/O Dinesh Singh, resident of Vill.- Pran Bigha, P.S.- Ghushi, Distt.- Jehanabad
3. Shivji Singh S/O Jagdish Singh, resident of Vill.- Jagdishpur, P.S.- Ghushi, Distt.- Jehanabad
4. The State of Bihar, through Principal Secretary, Home Department, Bihar, Patna
5. The Director General of Police, Bihar, Patna
6. The Director General-cum-Commandant General, Home Guard, Bihar, Patna
7. Senior Superintendent of Police, Patna

.... Respondents

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Appearance :

(In LPA No. 419 of 2013)

For the Appellants : Mr. Mritunjay Kumar, AC to AAG-10

For the C.S.B.C. : Mr. Sanjay Pandey, Advocate

Mr. Binod Kumar Mishra, Advocate

For the Private Respondent: Mr. Binod Kumar, Advocate

(In LPA No. 1958 of 2012)

For the Appellant : Mr. Sanjay Pandey, Advocate
Mr. Binod Kumar Mishra, Advocate
For the State : Mr. Sheo Shankar Prasad, SC-10
For the Private Respondent: Mr. Binod Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)
Date: 01-07-2016

The delay in filing the appeal by the State is condoned.

We have heard learned counsel for the State, learned counsel for the private contesting respondents, who were the writ petitioners and learned counsel for the Central Selection Board of Constable, and as both these appeals arise from the same order, with the consent of the parties, they have been taken together and disposed of at this stage itself.

The facts are not in dispute. The writ petitioners were selected in Police Service on the basis of being Home Guard employee. That was the eligibility condition for their selection. It revealed to the authorities that the writ petitioners, who had been selected as Home Guard personnel, were found to be indulging in activities not compatible to a Home Guard. They stood discharged from the post of Home Guard. We would refer the sequence of events in this regard a little later. But this fact is reflected in Annexure-1 to the writ petition itself. This fact having been brought to the notice of the Police Authorities, petitioners' selection in Police Service was accordingly

cancelled and/or inasmuch as they lacked the eligibility criteria. In our opinion, on this short issue itself we cannot agree with the view taken by the learned Single Judge. The writ petitioners lacked basic eligibility criteria having been discharged as Home Guard personnel which fact was not brought to notice while seeking employment as a Constable in Police Service.

Learned counsel for the State points out that the petitioners had challenged the order of their discharge from Home Guard in another writ petition, whereby directions were issued initially to allow them to file appeal. They purportedly filed the appeal and then reiterated that the appellate authority had allowed their appeal, which, on inquiry, was found to be a forged order. These facts having been brought to the notice of the Court, the petitioners withdrew their writ petition.

In view of the facts aforesaid, we have no option but to allow both the appeals and set aside the order of learned Single Judge, and dismiss the writ petition.

(Navaniti Prasad Singh, J.)

Rajeev/N.A.F.R.

(Nilu Agrawal, J.)

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