

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14325 of 2008

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Braj Kishore Singh, Son of Late Tika Singh, Resident of Village – Jhkhra, P.O. Salha, P.S. –Govindganj, District – East Champaran, Motihari.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Home Secretary, Government of Bihar, Patna.
3. The D.G. cum I.G. of Police, Bihar, Patna.
4. The D.I.G. of Police Champaran, Range, Bettiah
5. The S.P. West Champaran, Bettiah
6. The S.P. Saran at Chapra.

.... Respondents

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Appearance :

For the Petitioner : Mr. Teg Bahadur Singh, Advocate.
Mr. Rakesh Kumar Singh, Advocate.
Ms. Nirmala Kumari, Advocate.

For the Respondents : Mr. (AAG4)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 30-01-2017

Heard both sides.

The petitioner seeks quashing of the order of Saran District Order No. 1916 of 2003/ Bettiah District Order No. 1175 of 2003 as contained in Memo No. 1511 dated 30.06.2003 by which the service of the petitioner was terminated.

The petitioner was appointed on the post of Constable in the district of West Champaran after passing through the tests. One notice was issued to the petitioner, as contained in Memo No. 1292 dated 14.06.2003, by which the petitioner was asked to show cause that why his service be not terminated as he was appointed illegally. The petitioner gave show cause and thereafter by the order as



contained in Annexure-3, his service was terminated on the ground that he was illegally appointed.

Learned counsel for the petitioner submits that the petitioner served 13 years as constable in police department and thereafter the service of the petitioner was terminated. On the ground of equities, as held by the Supreme Court in ***Abhay Kumar Pandey v. State of Bihar (Civil Appeal No. 6297 of 2003 arising out of SLP (C) 10405 of 2001***), the service of the petitioner should not have been terminated. Same view is reiterated in the case of ***Roshani Devi vs. State of Haryana and Others, (1998) 8 SCC 59***.

In the case of Roshani Devi and others, it was held that when the process of appointment found to be invalid and the petitioner has already rendered more than nine years of service, on the ground of equities their termination should be saved. Similar is the view in the case of Abhay Kumar Pandey (*supra*). In the present case from perusal of the notice Annexure-1, it appears that on the order of Director General of Police the petitioner along with some other persons were appointed without following the procedure of appointment. Director General of Police issued a direction to find out as to how many persons were appointed illegally in different district. A report was given by the S.P. and in pursuance thereof, notice was issued to the petitioner and it was found that no procedure as



envisaged in Articles 15 and 16 of the Constitution of India was followed in appointment of the petitioner. The petitioner was illegally appointed on the post of constable on temporary basis and he was asked to do duty as orderly, therefore, I find that the appointment is, itself, illegal. Accordingly, the order does not warrant any interference.

Accordingly, I find no merit in this writ petition, the same is dismissed.

(Prabhat Kumar Jha, J.)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2017
Transmission Date	

