

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18765 of 2013

=====

Ram Babu Thakur, Son of Surrendra Thakur, Resident of Village- Barkurwa,
P.O. Turki, P.S. - Kurhani, District- Muzaffarpur

.... Petitioner

Versus

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

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Rajendra Narain, Sr. Advocate
Mr. Manoj Kumar Jha, Advocate

For the Respondents : Mr. Lalan Kumar, AC to GP 9

For Accountant General: Mr. Bindhyachal Rai, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-07-2017

Heard learned senior counsel for the petitioner, learned counsel for the respondents, and also learned counsel for the Accountant General.

2. The present writ petition has been filed for quashing the District Order No. 741/13 issued vide Memo No. 1222 dated 19.05.2013 (Annexure-15) under the seal and signature of the Senior Superintendent of Police, Muzaffarpur, the respondent no. 3 whereby and whereunder the petitioner has been terminated.

3. Mr. Rajendra Narain, learned senior counsel appearing on behalf of the petitioner, makes a short submission, assailing the impugned order of termination on the ground that on the earlier occasion when the petitioner was similarly terminated, he had



approached this Court in CWJC No. 15056 of 2005 which was disposed of on 16.02.2012, setting aside his termination after taking note that the petitioner had been appointed pursuant to the requisition made to the Employment Exchange and after considering the fitness of the candidates including the petitioner. It is, therefore, submitted that the impugned order of termination on the very same ground is unsustainable.

4. Learned counsel for the respondents, on the other hand, refers to the earlier order of this Court dated 16.02.2012 passed in CWJC No. 15056 of 2005 wherein it was observed that the authorities were required to have issued notice to the petitioner but the termination order had been passed without notice. In the second round, a notice has duly been issued to the petitioner to which he replied and only thereafter the instant termination order has been issued.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. A perusal of the order of this Court dated 16.02.2012 passed in CWJC No. 15056 of 2005 shows that this Court took note of the various facts and circumstances including the fact that there was sanctioned vacant post of Constable (Barber) in the District Police, Muzaffarpur and that the petitioner had been appointed pursuant to the requisition made through the Employment Exchange



and after undergoing the fitness test. The said order has not been challenged by the respondents and has accordingly attained finality. This Court is therefore of the view that having accepted the order passed in CWJC No. 15056 of 2005, a fresh proceeding for termination of the petitioner on the very same ground would not be valid as that would amount to sitting over the judgment of this Court, apart from the fact that it would result in endless litigation on the same facts time and again.

6. In the above circumstances, the impugned District Order No. 741/2013 contained in Memo No. 1222 dated 19.05.2013 (Annexure-15) is hereby quashed with consequential effect. The writ petition stands allowed.

B.T/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.08.2017
Transmission Date	N.A.

