

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14520 of 2008

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Kamdeo Kumar S/o Sri Sheo Deo Rai, resident of village- Bahadurpur, P.S.
Daudnagar, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Deputy Director General, Bihar Military Police (Central Range), Patna
3. The Superintendent of Police, Buxar-cum-Commandant, BMP 4 Dumraon
4. The Superintendent of Police, Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mithilesh Kr. Rai, Advocate

For the Respondent/s : Mr. (SC12)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 07-02-2017

Heard both sides.

2. The petitioner seeks quashing of the order dated 03.09.2008, passed by respondent No.3, as contained in Memo No. 447, Force Order No. 115/08, (Annexure-2) by which service of the petitioner was terminated without giving him any notice.

3. The short facts, which are relevant for disposal of this writ petition, are that the petitioner applied for appointment to the post of Constable, vide advertisement No. 2 of 2004. The petitioner was appointed vide memo No. 1960 dated 24.07.2008 on the post of Constable, subject to police verification. On police verification, it was found that there is a case, vide Daudnagar P.S. case No. 173 of 2005 under Sections 307 and other Sections of the IPC and under Section



27 of the Arms Act, pending against the petitioner and, consequently, the appointment of the petitioner was cancelled by the impugned order (Annexure-2).

4. Sri Mithilesh Kumar Rai, the learned counsel for the petitioner, submits that admittedly at the time of advertisement, i.e., in the year 2004, the petitioner was not having any criminal antecedent and in the year 2005, on account of some family dispute with regard to flow of drainage, there was a case and counter case and Daudnagar P.S. case No. 173 of 2005 was registered against the petitioner and others. The petitioner is informant of Daudnagar P.S. case No. 172 of 2005. The learned counsel for the petitioner submits that the case was registered on account of land dispute and there is no allegation of moral turpitude against the petitioner. The service of the petitioner has been terminated without giving any notice, therefore, the same is violative of principles of natural justice.

5. The learned counsel for the respondents submits that the appointment of the petitioner itself was provisional, subject to the police verification.

6. After hearing both sides and on consideration of materials on record I find that at the time of advertisement the petitioner had no criminal antecedent and he did not conceal any fact in his application form filled by him. Subsequently, one case and



counter case was lodged from the side of petitioner and against the petitioner, that too on account of dispute with regard to land and flow of drainage. Therefore, I find that the termination of service of the petitioner, without giving him notice, is illegal and not sustainable.

7. Accordingly, the impugned order (Annexure-2) is set aside. The respondents shall be at liberty to initiate a fresh proceeding against the petitioner and pass order afresh, after giving him due notice.

This writ petition is allowed.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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