

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.409 of 2017
IN
Civil Writ Jurisdiction Case No. 17923 of 2013**

- =====
1. The State of Bihar through the Director General of Police, Patna.
 2. The Director General of Police (Vigilance), Patna.
 3. The Inspector General of Police, Patna Zone.
 4. The Dy. Inspector General of Police, Magadh Range, Gaya.
 5. The Superintendent of Police, District - Aurangabad.
 6. Shri Sanjay Kumar, Ex - SDPO (Sadar) Aurangabad, presently posted as Dy. S.P. Motihari (Proceeding Officer).

.... Appellant/s

Versus

Ajay Kumar Sinha Son of Late Anand Mohan Prasad Sub Inspector of Police (Dismissed) Resident of Mohalla - Subhash Colony, Chandmari, Motihari (East Champaran) P.S. Town, District - Motihari.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ashish Kumar Lal
For the Respondent/s : Mr. B K Sinha, Sr. Advocate
Mr. Krishna Ranjan and Raj Nandan Kumar

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 29-01-2018

Seeking exception to an order passed on 03.05.2016 in
CWJC No. 17923 of 2013 this appeal under Clause 10 of the Letters
Patent has been filed by the State Government.

The respondent-employee was appointed as Sub



Inspector of Police on 21.08.1994 by the Inspector General of Police (Administration), Bihar, Patna. However, disciplinary proceedings were initiated against him by the subordinate officer, namely, D.I.G. of Police, Central Range, Bihar, Patna and after departmental enquiry as the services were terminated the writ petition in question challenging the termination was filed and one of the grounds was that the petitioner was appointed by the Inspector General of Police, the appointing authority of the petitioner, termination/dismissal by a subordinate officer, namely, D.I.G. Police, is unsustainable violating Article 311(1) of the Constitution of India and, therefore, is illegal.

The learned Writ Court took note of the issue in question and allowed the writ petition. Challenging the same, this appeal has been filed and the grievance canvassed before us is that in accordance with the Bihar Police Manual and the Disciplinary and Appeal Rules, as the D.I.G. Police is the statutory appointing authority but delegating the power of appointment and termination to the D.I.G. Police the action taken by him is proper and on this ground interference cannot be made.

We find that similar writ petitions filed by various other employees identically situated were also appointed by the Inspector General of Police (Admn.), Patna in the year 1994 and in whose cases also the Dy. Inspector General of Police took action; identical writ



petitions have been allowed and the appeal filed by the State Government being LPA No. 1571 of 2014 was dismissed by a co-ordinate Bench of this Court on 03.07.2015. Identical grounds are placed before us were canvassed in LPA No. 1571 of 2014, wherein also by referring to the Rules it was stated that Dy. Inspector General of Police being the appointing authority there is no illegality in the matter. But by taking note of Article 311(1) of the Constitution identical grounds have been rejected by the Division Bench on 03.07.2015 while dismissing the appeal filed by the State Government, i.e. LPA No. 1571 of 2014. Against this order passed by the Division Bench, the matter travelled to the Supreme Court in Special Leave to Appeal (Civil) No. 5695 of 2017 and the Hon'ble Supreme Court has dismissed the SLP of the State Government on 27.03.2017 and has upheld the final judgment rendered by this Court on 03.07.2015 in LPA No. 1571 of 2014. Once similar appeal of the State Government on the identical grounds have been rejected on 03.07.2015, we see no reason to make any indulgence in the matter.

That apart, another appeal filed by the State Government was dismissed by this Bench also on 07.01.2018 after taking note of the earlier Division Bench decision in LPA No. 1571 of 2014 and dismissal of the SLP of the State Government on 27.03.2017. That being the factual position we see no reason to take a different view.



Accordingly, for the grounds and reasons already considered and rejected by a co-ordinate Bench of this Court in LPA No. 1571 of 2014, we dismiss this appeal.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mr1./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2018
Transmission Date	

