

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1684 of 2017

1. The State Of Bihar
2. The Director General of Police, Govt. of Bihar, Patna
3. The Inspector General of Police Range at Muzaffarpur, Govt. of Bihar, Patna
4. The Deputy Inspector General of Police, Tirhut Range at Muzaffarpur
5. The Senior Superintendent of Police, Muzaffarpur at Muzaffarpur
6. The Deputy Superintendent of Police West at Muzaffarpur

... .. Appellant/s

Versus

Ram Parikshan Gupta, son of Late Saudagar Sah, resident of village- Thadhi, P.S. Andhrathadi, District-Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Utsav Kumar, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 31-01-2018 Seeking exception to an order passed on 16.5.2016 in CWJC No. 18801/2013, 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 in the year 1994 by the then Director General cum Inspector General of Police (Administration), Bihar, Patna. However, disciplinary proceedings were initiated against him by the subordinate officer, namely, D.I.G. of Police, Tirhut Range, Muzaffarpur 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 C-ordinate Bench of this Court on 3.7.2015. 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 3.7.2015 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 27.3.2017 and has upheld the final judgment rendered by this Court on 3.7.2015 in LPA No. 1571 of 2014. Once similar appeal of the State Government on the identical grounds has been rejected on 3.7.2015, 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 7.1.2018 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 27.3.2017. 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)

spandey/-

(Anil Kumar Upadhyay, J)

U			
---	--	--	--

