

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8739 of 2003

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Ajit Narain Singh, s/o Gobardhan Singh, r/o vill-Alipur Dih, PS-Parbalpur, Dist-Nalanda at present posted as Constable in Police Line (Constable no. 89 in Sheikhpura police) Petitioner/s

Versus

1. The State of Bihar
 2. Director General of police, Govt. of Bihar, Patna
 3. Inspector General of police, Govt. of Bihar, Patna region, Patna
 4. Deputy Inspector General of Police, Govt. of Bihar, Magadh Range, Gaya
 5. Superintendent of Police, Nawadah
 6. Superintendent of Police, Sheikhpura Respondent/s
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Appearance :

For the Petitioner/s : Mrs. Nivedita nirvikar
: Mr. Sandeep Shahi
For the Respondent/s : Mrs. Abhanjali

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 28-08-2018

I.A. no. 521 of 2006

The present interlocutory application has been for amending the writ petition in view of the subsequent developments having taken place to the effect that the order of termination *qua* the petitioner herein has been issued, which is dated 14.07.2003.

I.A. no. 521 of 206 is allowed and the registry is directed to add the additional prayer, to the effect that the petitioner now seeks quashing of the order of termination dated 14.07.2003, to paragraph no. 1 of the main writ petition.

CWJC no. 8739 of 2003

1. The brief facts of the case are that an advertisement was issued in the year 1989 and after holding the selection process, the



respondents appointed the petitioner vide letter dated 19.06.1996 as Constable and thereafter, the petitioner continued to work to the satisfaction of all concerned, however, suddenly, the respondents had issued a show cause notice dated 25.04.2003 directing the petitioner to submit his reply as to why his services should not be terminated on account of certain illegality being discovered in the selection process. Thereafter, the petitioner had challenged the show cause notice dated 25.04.2003 before this Court in the present case, however, in the meantime, the service of the petitioner was terminated by letter dated 14.07.2003 after serving the respondents for more than 12 years.

2. The learned counsel for the petitioner has submitted that similarly situated Constables whose services had been terminated, had also approached this Court and this Court by a judgment ***dated 02.07.2008*** passed in ***L.P.A. no. 221 of 2008***, had affirmed the order passed by the learned Single Judge, whereby and whereunder the order of termination had been quashed. The learned counsel for the petitioner has also referred to the order ***dated 03.02.2003*** passed in ***WP(S) no. 2087 of 2002***, wherein also the cases of similarly situated persons has been allowed and the order of termination has been quashed, primarily on the ground that the writ petitioners had worked for about 14 years and there was no justification to issue show cause notice after 14 years of service and to terminate the services merely on



the ground that the rules provided in the Police Manual, were not followed. The learned counsel for the petitioner has also relied upon the judgments passed by the learned Division Bench of this Court, reported in **(1994) 2 BLJ 499 (Ashok Kumar & ors. v. State of Bihar & ors.)** and the one reported in **(2004) 1 BLJ 733 (State of Bihar & ors. v. Sudhanshu Shekhar Mullick)** to contend that though the initial appointment of the incumbents may be wrong but as the incumbents have not obtained appointment by means of any forgery or misrepresentation, the validity of appointment cannot be challenged or opened after a lapse of 12 years.

3. I have heard the learned counsel for the parties and perused the materials on record and I find that the present case is squarely covered by the aforesaid judgments passed from time to time in various cases, hence this Court has no option but to allow the present writ petition and quash the termination order dated 14.07.2003.

4. The writ petition is allowed and the order of termination dated 14.07.2003 is quashed.

5. At this juncture, the learned counsel for the petitioner submits that if not 100%, atleast 50% back wages be allowed to the petitioner since the order of termination has been found to be illegal. This Court is of the opinion that interest of justice would be met, in



case 50% back wages are directed to be paid to the petitioner along with continuity in service for the purposes of retiral benefits.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.10.2018
Transmission Date	NA

