

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1018 of 2016

In
Civil Writ Jurisdiction Case No.14609 of 2015

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Sapper Welfare Association, Office situated at Surhi Tola, Mahendru, P.S. Mahendru, Patna-800006 through its President namely Sri Dharmdeo Singh, son of Sri Surajdeo Singh, resident of village-Udaybhanpur, P.O. Basantpur, P.S. Krishnagarh, Barhara, District Bhojpur, Ara.

... .. Appellant- Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Home Department, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police (Operation), Bihar, Patna.
4. Senior Superintendent of Police, Patna.
5. Senior Superintendent of Police, Muzaffarpur
6. Senior Superintendent of Police, Bhagalpur.
7. The Superintendent of Police, Siwan.
8. The Superintendent of Police, Chapra.
9. The Superintendent of Police, Sitamarhi.
10. The Superintendent of Police, Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Kameshwar Prasad Gupta, Advocate
For the Respondent/s	:	Mr. P. K. Verma, AAG -3
		Mr. S. K. Sharma, AC to AAG-3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-02-2018

Seeking exception to an order passed by the learned Writ
Court on 31.03.2016 in Civil Writ Jurisdiction Case No.14609 of



2015, this appeal has been filed under Clause 10 of the Letters Patent.

In the matter of action taken against the (Special Auxiliary Police, (for short, 'SAP') Personnel by the Police Department in various districts, the writ petition in question was filed by the Sapper Welfare Association and the Writ Court has dismissed the writ petition only on the ground that the so-called Association can not file the petition. However, we issued notice to the respondents and after hearing all concerned on 16.10.2017 we found that with regard to 39 days strike undertaken by the SAP personnel in the State of Bihar between 09.06.2015 to 16.07.2015 an action was taken against 180 SAP personnel, their services were terminated and thereafter the strike was called off and while calling off the strike, it seems that it was undertaken that services of the SAP would not be terminated. Accordingly, 120 SAP personnel were taken back on duty and when claim of 60 persons were not considered, the writ petition in question was filed.

During the pendency of the writ petition, another 19 persons were permitted to join duties, 7 in the district of Chapra, 8 in Siwan and 4 in Begusarai. Accordingly, out of 180 SAP personnel who participated in the strike, this Court observed on 16.10.2017 that 139 personnel have been permitted to join duties and only 51



SAP personnel remained. The State Government was directed to explain as to why these 51 persons were not permitted to join duties.

Counter affidavit has been filed by the State Government and from the counter affidavit it is seen that vide memo dated 04.08.2015, all the Regional Deputy Inspector General of Police, Bihar, were directed to review the appeals filed by SAP personnel whose contract was terminated for participating in the strike and thereafter to take action.

Further, supplementary counter affidavit filed by the respondents indicates that in case of all the districts, action has been taken and all such SAP personnel who were interested in joining duties, they have been permitted to join duties. Some of them refused to join duties and some indicated that they have got employment in the State of Jharkhand and, therefore, they were not interested in joining duties. Finally, it was found that with regard to three persons of Patna District, they have not been permitted to join duties and it was indicated that the DIG, Patna, has rejected the appeals of these three persons. Reason for not permitting these three persons to join duty was called for and it was indicated that an FIR being Kotwali P.S. Case No.311 of 2015



was lodged. These three personnel are named in the FIR and, therefore, their cases cannot be considered.

We went through the record and the FIR and we find that the FIR was lodged against about 1500 to 2000 unknown personnel, including more than 9 SAP personnel with regard to the strike in question and all the SAP personnel, except these three persons who are posted within the jurisdiction of DIG Patna Range, have been taken back on duty. Their appeals have been rejected only on the ground that they are not hard working and their names find place in the FIR. We are of the considered view that once SAP personnel have been taken back on duty, there is no reason as to why three SAP personnel, namely SAP 281 Thakur Pramod Kumar, SAP 294 Dinanath Singh and SAP 297 Binod Prasad be disallowed from joining duties. The action of the respondents seems to be taken cumulatively and these persons have been proceeded with only because they have taken participation in the strike. We find that this act of the respondents in discriminating between these persons is unsustainable.

Accordingly, we direct the Inspector General of Police, (Operation), Patna, to issue notice to the three SAPs whose appeals have been dismissed giving them an opportunity to join duties and



if they are willing to join duties, permit them joining as has been done in the case of other similarly situated SAP personnel.

With the aforesaid, the appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

