

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 6407 of 2004

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Vijay Kumar Srivastava, son of late Ram Chandra Prasad Srivastava, C/o Professor
Vinod Verma, House No 259, Patliputra Colony, PO & PS – Patliputra Colony,
District - Patna

.... Petitioner/s

Versus

- 1 The State of Bihar
- 2 Director General of Police, Government of Bihar, Old Secretariat, Patna
- 3 Inspector General of Police, CID, Old Secretariat, Patna
- 4 Deputy Inspector General of Police, CID, Old Secretariat, Patna
- 5 Superintendent of Police, CID, Old Secretariat, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms Nutan Sahay,
Mr Ugranath Mallik, Advocate
For the State : Mr Niraj Kumar, AC to GA X

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 06-03-2018

Heard learned counsel for the petitioner and the
respondent-State.

2 Petitioner has approached this Court for setting aside
the order of termination dated 26.09.2003 whereby his services as
Constable in the Bihar Police has been terminated. Petitioner's
counsel submits that pursuant to decision taken by the highest
functionary in the Department such as the DGP, the petitioner was
appointed as a Constable in December, 1986. it is the submission of
the petitioner's counsel that having discharged his duties, without any
complaint against him after about 17 years, his services are sought to
be terminated by the impugned order dated 26.09.2003 without



assigning any reason and without considering any of the averments made by the petitioner in his reply to show cause dated 23.09.2003. The same was submitted in response to notice (Annexure 6) dated 10.09.2003.

3 It is submitted by the learned counsel for the State that in view of the judgment of this Court in the case of *Sudhir Kumar – Versus- State of Bihar & Others, 2000 (3) PLJR 717*, the petitioner's appointment cannot be said to be in accordance with the procedure and, as such, the appointment is illegal. Counsel for the State has tried to justify the order of termination by relying upon Annexures C and D of the counter affidavit to show that the same suggests that the appointment of the petitioner was after giving relaxation in respect of height and age. This Court finds that in the same breath, the respondents, in the counter affidavit, have admitted that the appointment was made at the highest level of the force being Director General –cum- Inspector General of Police.

4 Learned counsel for the petitioner submits that the appointment of the petitioner had been done by the competent authority against substantive vacancies and after continuing for such a long time in the service of the force, he could not have been terminated by such a cryptic order (Annexure 8), i e, the order dated 26.09.2003. It is the submission of the petitioner's counsel that by the



same termination order, altogether 9 persons have been terminated.

5 Reliance is placed on order dated 23.07.2012 passed in *CWJC No 3799 of 2006* and analogous case bearing *CWJC No 4097 of 2006*. The said order has been passed in the cases of Satish Chandra Jha and Jagdish Paswan who are at serial No 9 and 4 respectively of the same order of termination by which the petitioner's services have been terminated. Taking notice of the said order being a non-speaking order, without considering the show cause filed on behalf of the petitioners therein, this Court by the said order passed in *CWJC No 3799 of 2006* has been pleased to quash the order of termination while allowing liberty to the respondents to proceed afresh in accordance with law.

6 Having gone through the said order passed in *CWJC No 3799 of 2006*, this Court finds that the said order is a common order of termination in respect of the petitioner and the said two petitioners of *CWJC No 3799 of 2006* and its analogous case, and in the case of the said two persons, namely, Satish Chandra Jha and Jagdish Paswan, this Court has found the same termination order to be a non-speaking order without assigning any reason and, as such, being violative of principles of natural justice as the same shows non-consideration of the show cause filed on behalf of the petitioners.

7 Since the same order has already been set aside in



respect of the other two effected persons, as noticed above and since in respect of the show cause filed by the petitioner also, the impugned order does not show any consideration, the petitioner would also be entitled to similar treatment as that in respect of the petitioners in the said *CWJC No 3799 of 2006*.

8 In view of the consideration, as aforesaid, the order of dismissal/termination dated 26.09.2003, in so far as it relates to the instant petitioner also, is unsustainable and is consequently quashed. However, liberty is given to the respondents to proceed afresh in accordance with law.

9 Writ petition is, accordingly, disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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