

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5315 of 2003

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Shivji Singh, s/o late Vijendra Pd. Singh, r/o vill-Baikathpur, PS-Khusrupur, Dist-Patna, at present posted as constable in Gaya District police, PS-Chandeti (presently constable no. 1420 and old constable no. 50- while he was posted at Nawadah)

.... 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. Sri Bacchu Singh Meena, S.P. Nawadah

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Nivedita Nirvikar

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. 520 of 2006

During the pendency of the present writ petition, the authorities have issued the order of termination dated 14.07.2003 which is sought to be challenged by way of the present interlocutory application.

I.A. no. 520 of 206 is allowed and the registry is directed to add the prayer made by the petitioner regarding quashing of the order dated 14.07.2003 as an additional prayer to paragraph no. 1 of the main writ petition.

CWJC no. 5315 of 2003

1. The brief facts of the case are that the respondents had issued an advertisement dated 10.10.1989 and after completion of the



selection process, the petitioner was appointed vide letter dated 19.06.1990 and thereafter, the petitioner had joined the services of the respondents as a Constable. However, subsequently, it appears that some discrepancies were observed by the respondents in the selection process and thereafter, a show cause notice dated 25.04.2003 was issued to the petitioner asking him to submit his reply as to why his services be not terminated in view of the irregularity having been committed in the selection process. The petitioner had filed a reply to the show cause and infact, had also challenged the said show cause notice dated 25.04.2003 before this Court by filing the present writ petition, however, in the meantime, the services 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 the 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 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 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	17.10.2018
Transmission Date	NA

