

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9355 of 2003

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Anjani Kumar Verma, s/o Dr. Bishambhar Prasad, Verma, r/o vill-Mehiddinpur, PS-Rahvi, Dist-Nalanda at present posted as security guard of I.G., C.I.G. Govt. of Bihar, Patna (constable no. 3529, old constable no of Nawadah-294)

.... 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. S.P. Nawadah
6. S.P. Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar
For the Respondent/s : Mr.S.J.Rahman Gp7

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 28-08-2018

1. At the outset, the learned counsel for the petitioner has preferred to draw the attention of this Court to the supplementary affidavit filed by the petitioner dated 12.09.2003, wherein a prayer has been made for amending the main writ petition by inserting a prayer for quashing the order no. 744 of 2003 dated 18.08.2003, by which the services of the petitioner has been terminated.

2. The prayer of the petitioner is allowed and the registry is directed to add the additional prayer of the petitioner to the effect that the petitioner also seeks quashing of order no. 744 of 2003 dated 18.08.2003, to paragraph no. 1 of the main writ petition.



3. The brief facts of the case are that an advertisement dated 10.10.1989 was issued and in pursuant thereto, a selection process was held and the petitioner was appointed as Constable vide letter dated 19.06.1990. Suddenly, a show cause notice was issued to the petitioner which is dated 25.04.2003 and the petitioner was directed to file his reply as to why his services be not terminated on the pretext that some irregularities have been observed in selection process. The petitioner had then challenged the said show cause notice dated 25.04.2003 before this Court, however during the pendency of the writ petition, the services of the petitioner was terminated by a letter dated 18.08.2003, which the petitioner has challenged by way of filing supplementary affidavit.

2. The learned counsel for the petitioner has submitted that similarly situated Constables, whose services had been terminated, had 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 *WPS no. 2087 of 2002*, wherein also the cases of the similarly situated persons have



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 is wrong but as the incumbents have not obtained appointment by means of any forgery or misrepresentation, the validity of their 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.



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	30.05.2019
Transmission Date	NA

