

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5480 of 2003

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1. RAM PRAKASH @ RAM PRAKASH ARYA, son of Sri Guru Charan Das, resident of village-Chaturbhujpur, P.S. Amethi, District-Sultanpur of Utter Pradesh, presently posted in Gaya Police Line, Gaya (Constable No. 533).
 2. Dilip Lakra son of Sri Zakharious Lakra resident of village-Baheratol, P.S. Khetali, P.S. Dumari, District-Gumala (Jharkhand), at present posted as Constable of Special Task Force, Chita-5, Patna (Constable No. 500)

... .. 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

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ravindra Griyaghey Mr.Sunil Kumar
For the Respondent/s	:	Ms. Abhanjalli , A.C. to G.A.12

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date: 24.07.2019

Reg: I.A. No. 3 of 2019

The present Interlocutory Application has been filed on behalf of the petitioner no. 2 for amending the main writ petition and now the petitioner seeks quashing of the order of termination dated 02.09.2003.

I.A. No. 3 of 2019 is allowed and the writ petition stands amended to the aforesaid extent.

Reg: I.A. No. 4 of 2019

The present I.A. has been filed on behalf of the petitioner no. 1 for the purposes of amending the main writ petition and



now the petitioner seeks quashing of the order of termination dated 04.06.2004, as contained in District Order No. 765/2004.

I.A. No. 4 of 2019 is allowed and the writ petition stands amended to the aforesaid extent.

Reg: C.W.J.C. No. 5480 of 2003

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 petitioners were appointed vide letter dated 19.06.1990 and thereafter, the petitioners had joined the services of the respondents as Constables. 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 petitioners asking them to submit their reply as to why their services be not terminated in view of the irregularity having been committed in the selection process. The petitioners had filed reply to the show cause and in fact, 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 no. 1 was terminated vide order dated 04.06.2004 while the services of the petitioner no. 2 was terminated vide order dated 02.09.2003.



At this juncture, it may be relevant to state that despite the order of termination dated 04.06.2004, having been passed in the case of the petitioner no. 1, the same was not given effect to and the petitioner no. 1 has also been promoted to the post of Assistant Sub-Inspector of Police vide Memo No. 2361/P-2 dated 12.08.2016.

The learned counsel for the petitioners 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 petitioners 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 petitioners 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.

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 orders dated 04.06.2004 (petitioner no. 1) and 02.09.2003 (petitioner no. 2).

The writ petition is allowed and the orders of termination dated 04.06.2004 (petitioner no. 1) and 02.09.2003 (petitioner no. 2) are quashed, with a direction to the respondents to pay 50 % back wages, as far as petitioner no. 2 is concerned. As far as the petitioner no. 1 is concerned, he having continued in service and having also been promoted vide order dated 12.08.2016, there is no need of passing any order with regard



to back wages and in fact the learned counsel, appearing for the
petitioner no. 1, has conceded to the said extent.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.08.2019
Transmission Date	

