

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5201 of 2003

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K.VIJAYAN PILLAI @ VIJAYAN PILLAI, son of Kunjan Pillai, resident of village-Elangamanglam, P.S. Adoor, District-Pathanam Thilte, State-Kerala, at present posted as Constable Driver bearing no. 1771, Traffic Police Station, Gandhi Maidan, Patna

... .. 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

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Appearance :

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

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

Reg: I.A. No. 2 of 2019

The present Interlocutory Application has been filed for amending the writ petition and now the petitioner seeks additional reliefs i.e. for quashing the Order No. 1303/2003 and Memo No. 3102 of 2002 dated 17.07.2003 issued by the Superintendent of Police, Nawada, whereby and whereunder the services of the petitioner has been terminated.

I.A. No. 2 of 2019 stands allowed and the writ petition stands amended, accordingly.

Reg: C.W.J.C. No. 5201 of 2003

The present writ petition was initially filed for setting



aside the show cause notice dated 25.04.2003 whereby and whereunder the petitioner herein was directed to submit his reply as to why his services should not be terminated on account of certain illegality being discovered in the selection process. However, in the meantime, it appears that the order of punishment dated 17.07.2003 was passed,whereafter, the petitioner had filed an amendment petition and the writ petition stood amended.

The brief facts of the case are that an advertisement was issued in the year 1989 and after holding the selection process, the respondents had appointed the petitioner vide letter dated 19.06.1990 as constable and thereafter, the petitioner continued to work to the satisfaction of all concerned, however, suddenly, the respondents had issued a show cause notice dated 25.04.2003 directing the petitioner to submit his reply as to why his services should not be terminated on account of certain illegalities being discovered in the selection process, hence, the same had led to filing the present writ petition. However, during the pendency of the present writ petition, the services of the petitioner were terminated vide order dated 17.07.2003, after the petitioner had served the respondents for about 14 years.

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 similarly situated persons has been allowed and the order of termination has been quashed, primarily on the ground that the writ petitioner 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 also relied upon the judgments passed by the learned Division Bench of this Court, reported in **(1994)2 BLJ 499 (Ashok Kumar & Ors. vs. 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 or opened after a lapse of 12 years.

It is further submitted by the learned counsel for the petitioner that the petitioner is not in service at the moment. Lastly, it is submitted that the present case is squarely covered by a judgment dated 28.8.2018 passed by this Court in CWJC No. 8739 of 2003 and other similar type of cases.

The learned counsel for the respondents does not dispute the fact that the case of the similarly situated petitioners has already been allowed by this Court and the order of termination has been quashed.

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 order of termination dated 17.07.2003.

The writ petition is allowed and the order of termination dated 17.07.2003 is quashed.

The learned counsel for the petitioner submits that if not 100%, at least 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)

S.Sb/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.08.2019
Transmission Date	

