

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23116 of 2019

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Ran Vijay Kumar Sen, Son of Dev Nandan Sen, Resident of village- Baikha Mahindwar, P.S. Phulparas, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Department of Home (police) Government of Bihar Patna.
2. The District - Magistrate Cum Collector, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The Circle Officer, Phulparas, District Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gagan Deo Yadav, Adv.
For the Respondent/s : Mr.Md. Nadim Seraj (Gp5)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 17-12-2019 Heard both sides.

2. Petitioner in this writ petition seeks direction to the respondents authorities to consider the petitioner for his appointment on the post of Chowkidar/Dafadar in the light of government notification contained in communication no.1896 dated 05.03.2014 and for any relief or reliefs for which the petitioner is entitled.

3. Learned counsel for the petitioner submits that the government issued a notification no.1896 dated 05.03.2014 providing that if Chowkidar/Dafadar applies for voluntary retirement two months before his retirement and nominate his



son for appointment on the post of Chowkidar/Dafadar, the Collector shall appoint the son of Chowkidar, who sought such voluntary retirement. The father of the petitioner, namely, Devnandan Sen was Chowkidar working in Circle 5, Phulparas. He was appointed as Chowkidar in 1981. The father of the petitioner filed petition on 25.03.2015 before the Circle Officer to grant him voluntary retirement and appoint his son in his place. The Circle Officer, Phulparas vide his letter no.537 dated 29.04.2015 forwarded the application of the father of the petitioner to the S.D.O., Phulparas and in turn the S.D.O., Phulparas forwarded the application of the father of the petitioner to the Collector vide letter no.834 dated 06.05.2015 but the District Magistrate-cum-Collector, Madhubani illegally rejected the application of the father of the petitioner on 28.09.2016 on the ground that the application is not received before two months of the retirement of the father of the petitioner. The petitioner also filed petition for appointment in place of his father, which is pending since 2015.

4. Learned counsel for the State submits that the Collector has rightly rejected the application of the father of the petitioner as the application was not received in his office for voluntary retirement of the father of the petitioner before two



months of his retirement.

5. Having considered the submissions of both sides, I find that the Home (Police) Department issued a notification on 05.03.2014 as contained in Memo No.1896 which provides that if a Chowkidar seeks voluntary retirement at least one month before the date of his retirement and nominates his ward for appointment, his case for appointment shall be considered, but from perusal of Annexure 5 as well as the statements made by the petitioner, it appears that the father of the petitioner never filed any petition before the Collector for seeking his voluntary retirement but the petitioner filed petition for his appointment. On this ground alone, the Collector rightly rejected the application of the father of the petitioner. Moreso, from perusal of the notification issued by the Home (Police) Department, it appears that it provides inheritance in appointment if the father of the petitioner seeks voluntary retirement before one month of his actual retirement. If a Chowkidar seeks voluntary retirement before one month of his actual retirement, his nominee shall be considered for appointment on the post of Chowkidar. This rule appears, on the face of it, discriminatory and provides nomination of ward on public post, which is a violation of Articles 14, 15 and 16 of the Constitution of India.



6. Having considered the facts aforesaid, I do not find any merit in this writ petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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