

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No. 1009 of 2018
In
Civil Writ Jurisdiction Case No.18290 of 2010**

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Mithilesh Kumar Singh son of Lal Bihari Singh resident of Village -
Shankarpur, P.O. - Shankarpur, P.S. - Simari, Bakhtiyarpur, District - Saharsa.

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Bihar, Patna.
4. The Additional Director General of Police, Bihar Military Police, Bihar,
Patna.
5. The Deputy Inspector General of Police, Bihar Military Police - 21 at
Saharsa.
6. The Commandant Bihar Military Police - 21, Saharsa.
7. The Superintendent of Police, Katihar-cum- Chairman, Bihar Military Police
North Mandal Board No. 3

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Nagendra Upadhyay, Advocate
For the Respondent/s	:	Mr. Saroj Kumar Sharma, A.C. to Ag3

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 29-01-2021

Heard learned counsel for the appellant as well as
learned counsel for the State.

This LPA under Clause 10 of Letters Patent Appeal



has been preferred for setting aside the judgment and order dated 22.06.2018 passed in C.W.J.C. 18290 of 2010 passed by learned Single Judge of this Hon'ble Court whereby writ petition has been dismissed by learned single judge on ground of delay and laches .

Briefly stated the facts of the case is that advertisement was issued being advertisement no.2/2004 for appointment on the post of constable in BMP 21 which was reserved for Home Guards. Petitioner was also serving in Home Guard and applied and was selected against which selection Memo No.4394 dated 30.7.2005 was issued to him. Petitioner was called for verification of his document on 17.09.2005 in the office of Commandant, BMP - 21, Saharsha. However, he could not be appointed as there was difference in date of birth in his Home Guard certificate and his matriculation certificate.

It is submitted that along with petitioner, there were other candidates also who were selected but due to difference in date of birth in Home Guard certificate and matriculation certificate, they were not appointed against which they represented and selection Board sought clarification on this issue from Director General of Police and who clarified by Memo no.2232 dated 26.4.2008 which was to be followed and



after issuance of such clarification, several similarly situated candidates were appointed on the post of constable in 2008. Petitioner submitted representation in 2009 and 10 for his appointment but no steps were taken on his representation and as such, he filed writ petition being CWJC No.18290 of 2010 for his appointment on the post of constable pursuant to selection letter issued in the year 2005.

The writ petition was dismissed on ground of delay and laches as the appointment letter was issued on 30.7.2005 but petitioner has approached this Court in the year 2010 and the writ petition was taken up in the year 2018. Petitioner did not take any steps against refusal to accept his appointment due to difference in date of birth in matriculation certificate and home guard certificate and when other similarly situated candidates who pursued their matter before the authorities and were appointed in year 2008 then the petitioner woke up and filed his writ petition in the year 2010 and as such, same was dismissed by the learned Single Judge on ground of delay and laches.

In cases where matter relates to appointment in police force in which physical fitness and mental alertness is basic requirement, such right of appointment gets frustrated by



passage of time.

After hearing counsel for the appellant as well as counsel for the State, we are not inclined to interfere in the order passed by learned Single Judge, accordingly, the LPA is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
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