

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.128 of 2021
In
Civil Writ Jurisdiction Case No.8471 of 2003

1. The State of Bihar
2. The Director General of Police, Government of Bihar, Patna.
3. Inspector General of Police, Government of Bihar, Patna Region, Patna.
4. Deputy Inspector General of Police, Government of Bihar, Magadh Range, Gaya.
5. Superintendent of Police, Nawadah.

... .. Appellants

Versus

Nag Narain Rai son of Late Ram Jatan Rai resident of Village- Daudpur, Police Station- Daudpur, District- Chhapra previously posted as constable in Gaya District Police, Police Station- Khijarsarai erstwhile Constable No. 868 and old Constable No. 295 of Nawadah.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. P.K.Verma, AAG 3 Mr. Manoj Kumar, Adv. Mr. Sanjay Kumar Ghosarvey, Adv.
For the Respondent/s	:	Mr. Sharvan Kumar, Adv. Mr. Sunil Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 14-11-2022

Heard Mr. Sanjay Kumar Ghosarvey,
learned counsel for the appellant/State and Mr.
Sharvan Kumar for the respondent.

The respondent's services as Constable
has been terminated vide order dated



17.07.2003, which order was passed during the pendency of the writ petition viz. CWJC No. 8471 of 2003, which was filed by the respondent against the show cause notice dated 25.04.2003, whereby he was directed to submit his reply as to why his services be not terminated on account of certain illegality having been discovered in the selection process.

The learned Single Judge, while deciding the issue viz. the validity of the order of termination of the respondent, vide his order dated 19.04.2019, found that the appointment of the respondent was made against an advertisement issued in the year 1989 and that also after holding the selection process in its entirety. The respondent was appointed as a Constable on 19.06.1990, on which post he appears to have worked till 2003, when such show-cause notice, referred to above, was issued to him. The learned Single Judge, on finding that similarly situated Constables whose services had



been terminated but under the orders of the Court, such termination orders were quashed and they were reinstated in service and were also afforded all monetary benefits for the reason that they had worked for 14 years and there was no allegation of their having made any misrepresentation for seeking appointment, allowed the case of the respondent as well on the same terms and conditions by quashing the order of termination dated 17.07.2003. The learned Single Judge has also directed for 50 percent of the back wages to the respondent as the termination, in its opinion was not legal.

Assailing the afore-mentioned order, Mr. Ghosarvey, learned counsel for the appellant submits that with respect to some of the terminated employees, various Benches have not interfered with the order of termination and that the entire selection process stood vitiated, which fact came to light only in the year 2003. The appointment in these cases were made at the



instance of DGP, who had no power to effect appointment without observing the due process of law.

However, in all such cases, as has been urged on behalf of the respondent, there is no wrong statement or misrepresentation on behalf of anyone of the terminated employees, who continued to work on the post for more than one decade. This was found to be a good ground for interfering with the order of termination. It cannot be gainsaid that any appointment *de hors* the rules loses its sanctity, but in the present set of circumstances, there is nothing which can indicate that the respondent or anybody of his genre had made any misrepresentation before the authorities regarding his qualification or that he was hand-in-gloves with the appointing authorities for seeking appointment through backdoor or through illegitimate means.

Under such circumstances, this court finds it very difficult to interfere with the order



passed by the learned Single Judge.

We have given our anxious consideration to the direction of the learned Single Judge for payment of 50 percent of the back wages against the dictum that no money ought to be paid to anybody without work. We have found that if the respondent was not responsible for not performing his work because of his suspension or termination, with his reinstatement, he deserves to be paid at least 50 percent of the wages for the period that he remained out of service.

We thus put our imprimatur to the afore-noted observation of the learned Single Judge with respect to grant of 50 percent wages to the respondent after his reinstatement.

The appeal is dismissed.

At this stage, Mr. Sharvan Kumar, learned counsel for the respondent submits that the 50 percent of back wages have been computed and deposited before the Registrar



General of Patna High Court in the year 2021.

Let that amount be released in favour of the respondent forthwith on his approaching the Registrar General along with a copy of this order.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

SONALI/HR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.11.2022
Transmission Date	NA

