

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9287 of 2018

1. Dhodha Raut, S/o Late Manki Raut.
2. Pramod Kumar, S/o Dhodha Raut, Both Resident of vill.- Utaari Telahwa, P.S.- Nautan, Dist.- West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Home (Police), Government of Bihar, Patna.
2. The District Magistrate, West Champaran at Bettiah.
3. The Senior Deputy Collector, Establishment Section, Collectorate, Bettiah.
4. The Anchal Adhikarim Bagaha-1 Anchal, District- West Champaran.
5. The Superintendent of Police, West Champaran, Bettiah.
6. The Officer-in-Charge, P.s.- Nautan, West Champaran.
7. The Superintendent of Police, Bagaha, West Champaran.
8. The Officer-in-Charge, Bagaha, P.S.- West Champaran

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dilip Kumar Tiwari, Advocate Mr. Jainendra Kumar Pushkar, Advocate
For the Respondent/s	:	Mr. Saroj Kumar Sharma, AC to AAG 3

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 01-09-2022

Heard learned Counsel for the petitioners as well as
learned Counsel for the State.

2. The petitioner no.1 admittedly made an application for nomination of his son, petitioner no.2, for being appointed as Chauwkidar in terms of the Bihar Chaukidari Cadre (Amendment) Rules, 2014. It is not in dispute that the application was made on 09.04.2015 whereas the due and compulsory date of retirement of petitioner was 30.06.2015.



3. In this connection, this Court would consider it useful to reproduce the proviso which has been added to Rule 5 of the Bihar Chaukidari Cadre (Amendment) Rules. Clause 3 (क) and (घ) which are relevant for the instant case and are being reproduced here:-

“(क) चौकीदार संवर्ग के कर्मचारी अपनी वार्धक्य सेवानिवृत्ति की तिथि से कम से कम एक माह पूर्व के प्रभाव से स्वैच्छिक सेवानिवृत्ति एवं चौकीदार पद पर अपने द्वारा नामित किसी आश्रित को नियोजित करने के लिए आवेदन कर सकेगा।

(घ) स्वैच्छिक सेवानिवृत्ति का इच्छुक चौकीदार संवर्ग के व्यक्ति को सेवानिवृत्ति की अपनी इच्छित तिथि से कम से कम एक माह पूर्व अपने पदस्थापन जिला के जिला पदाधिकारी को अपना आवेदन देना होगा। ”

4. From bare perusal of the provision it is more than obvious that the responsibility of the Chaukidar, for availing the benefit of nomination and appointment of his son, is limited to making of application in terms of the rule which admittedly has been done.

5. The authorities, however, have rejected the claim of the petitioner for nomination of his son on a plea that the authorities did not consider it within a month from the due and compulsory date of retirement of the petitioner. The rejection is



in the meeting of the Committee constituted for considering the application. The minutes of the meeting dated 01.02.2018, which have been communicated to the petitioner on 03.02.2018 under memo no.6 under the signature of the In-charge Officer, District General Section, is impugned in the instant writ proceedings.

6. The petitioners' counsel submits that the rejection is unsustainable. The petitioner cannot be made to suffer for any delay in consideration attributed to the respondents themselves.

7. The learned Counsel for the State, on the other hand, submits that the claim could not be considered within time by the Authorities for very cogent reasons and, therefore, the Authorities were left with no option than to reject the claim since it was not considered within the time prescribed in the Rules. The decision is based on consultation and opinion of the Finance Department as well.

8. Considering the rival submissions, this court is not inclined to accept the plea advanced by the State to sustain the impugned rejection. Petitioner cannot be made to suffer because authorities have not considered his application within one month. The petitioner has complied with the requirement under the Rule by making application within time, which fact is not in



dispute. Thus, for the lapses committed by the respondents, being the delay in consideration, the petitioner cannot be made to suffer the consequences.

9. The impugned order of rejection of petitioner's claim is hereby quashed. The District Magistrate, West Champaran (Respondent No.2), is directed to reconsider the petitioner's claim in the next meeting without raising an issue that consideration is belated. If the petitioner is otherwise qualified for the selection then the same must be offered to him in the next meeting of the Committee. This Court would expect that in any case the exercise should be completed within three months from the date of receipt/production of a copy of this order.

10. Writ application is allowed.

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
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