

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 421 of 2020

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1. Shiv Lakhan Yadav S/o Late Kishori Yadav Resident of Nahar Rupauli (D), P.S.- Bisphi, District- Madhubani.
 2. Dharendra Kumar son of Budhadeo Yadav Resident of Nahar Rupauli (D), P.S.- Bisphi, District- Madhubani.

... .. Petitioner/s

Versus

1. The Commissioner (Home) Department Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Acting District Officer General Branch Madhubani.
4. The Superintendent of Police Madhubani.
5. The Sub- Divisional Officer Benipati, Madhubani.
6. The Circle Officer Bisphi Madhubani.
7. The Officer Incharge, Patona, Police Station- Madhubani, District- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr Sadanand Paswan, Advocate
For the Respondent/s : Mr Ruchikar Jha, AC to SC VIII

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 29-06-2022

Heard learned counsel for the petitioners and the respondents.

2 Petitioner No 2, as per claim in the writ petition, is the grandson of petitioner No 1, who was working as a *Chowkidar*. Under the Bihar Chaukidari Cadre Rules, 2006 (for brevity, *2006 Rules*), as amended by the Bihar Chaukidari Cadre (Amendment) Rules, 2014.



3 By an application dated 01.03.2019, petitioner No 1 has sought voluntary retirement with effect from 30.04.2019 and appointment of petitioner No 2 in his place under the proviso to Rule 5 (7) of the 2006 Rules. The due date of compulsory retirement of petitioner No 1 is 31.05.2019.

4 It is submitted by the petitioners' counsel that as per the Rules, the application was required to be made one month before the date from effect of which a *Chowkidar* claims voluntary retirement, which date was required to be one month before the due date of voluntary retirement of the *Chowkidar*. It is only if this time line is adhered to that a *Chowkidar*, who is otherwise qualified, can nominate his dependent to be appointed in his place. Referring to Annexure 4, i e, Report dated 31.08.2019 sent by the Circle Officer, Bisphi to the Sub Divisional Officer, Benipatti, it is submitted that Petitioner No 2 fulfills all the requisites for being a beneficiary of the appointment for which he has been nominated by his grandfather (Petitioner No 1). Annexure 5 is also referred to. The same is a Communication dated 25.09.2019 from the office of the Sub Divisional Officer, Benipatti to the Incharge Officer in the District General Section, Madhubani whereby Petitioner No 2's application has been forwarded for due



consideration and necessary action. The application, duly forwarded, as per petitioners' case, has been pending since 2019.

5 In view thereof, this Court would observe that final decision in respect of Petitioner No 2's claim based on the recommendation (s), referred to above, is required to be considered and final decision must be taken. Respondent No 2 is, thus, directed to take a final decision on petitioner No 1's pending application within eight weeks from the date of receipt/production of a copy of this order, based on the recommendations of the Circle Officer, Bisphi and Sub Divisional Officer, Benipatti.

6 The Authority should issue the consequential order in favour of Petitioner No 2 in terms of the recommendation (s), if there is no other impediment, and in accordance with law.

7 This writ petition stands disposed of with the aforesaid directions.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2022
Transmission Date	NA

