

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.244 of 2018

In
Civil Writ Jurisdiction Case No.16794 of 2016

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Vikram Kant Kumar Son of Anil Prasad, Resident of Village- Mahima Chak,
P.S.- Harnaut, District- Nalanda.

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Director General of Police, Bihar.
3. The Additional Director General of Police Headquarter, Patna.
4. The Inspector General of Police, Central Zone, Patna.
5. The Deputy Inspector General of Police, Patna.
6. The Senior Superintendent of Police, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Vikash Kumar, Advocate
For the State	:	Mr. Suman Kumar Jha, AC to AAG-3
		Mr. Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 09-02-2023

Heard learned counsels for the parties.

2. In the instant *lis* appellant has assailed the order of the learned Single Judge dated 19.12.2017 passed in C.W.J.C. No. 16794 of 2016. Pursuant to the Advertisement No. 01 of 2004, appellant participated in the process of selection and appointment to the post of Constable. He was not selected, therefore, he invoked remedy before this Court in C.W.J.C. No. 8601 of 2007 and it was disposed of on 03.10.2007 for



consideration of representation which resulted into no favourable order. Thereafter once again, he knocked the door of this Court in C.W.J.C. No. 16285 of 2007 and it was decided on 05.02.2008. Pursuant to the aforementioned order of this Court appellant was appointed to the post of Constable on 19.06.2009. In the meanwhile, Respondent-Department prepared seniority list of the concerned cadre in the year 2007. In this backdrop, appellant realized that he has lost his seniority with reference to his belated appointment to the post of Constable on 19.06.2009 in stead of in the year 2007 on par with other selected and appointed candidates.

3. Learned Single Judge rejected the claim of the appellant on the score that there is delay of 9 years in approaching this Court to rectify the seniority assigned to the appellant.

4. In so far as seniority and promotion grievances are concerned, affected person should invoke judicial remedy within a period of six months from the date of cause of action accrued as held by Apex Court in the case of ***P.S. Sadasivaswamy Appellant V. State of T.N.*** reported in ***AIR 1974 SC 2271*** read with ***Vijay Kumar Kaul and Ors. v. Union of India*** reported in ***(2012) 7 SCC 610***. Moreover, it is noticed



that the appellant has not impleaded such of those persons whose rights are likely to be affected in the event of granting seniority. Further, it is to be noted that unless and until his order of appointment is not given effect from the retrospective date, the appellant cannot claim seniority retrospectively. General principle is that seniority is required to be fixed with reference to the date of entry into the cadre. In the present case, appellant has entered the cadre of Constable on 19.06.2009, therefore, he is not entitled to seniority prior to 19.06.2009. On these counts, appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 19.12.2017 passed in C.W.J.C. No. 16794 of 2016.

5. Accordingly, present L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Harish Kumar, J)

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