

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.236 of 2020

In
Civil Writ Jurisdiction Case No.5480 of 2003

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1. The State of Bihar 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.

... .. Appellant/s

Versus

1. Ram Prakash @ Ram Prakash Arya Son of Sri Guru Charan Das, Resident of Village-Chaturbhejpur, Police Station-Amethi, District-Sultanpur in Uttar Pradesh erstwhile constable No. 533, posted in Gaya Police Line.
2. Dilip Lakra, Son of Sri Zakharious Lakra, Resident of Village-Baheratol, Police Station-Khetali, P.S.-Dumari, District-Gumala (Jharkhand) erstwhile constable No. 500, posted in constable of Special Tas Force Chita-5, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ajay Kumar (Ac To Gp4)
For the Respondent/s	:	Mr.Rakesh Kumar Singh, Advocate
		Mr.Sonu Kumar, Advocate
		Mr.Shashi Priya, Advocate

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

Date : 01-03-2024

Re: I.A. No. 1 of 2021

Heard I.A. No. 1 of 2021 for condonation of delay in filing LPA. Sufficient cause has not been shown in the application and affidavit, to condone delay of 196 days in filing the present LPA, however, in the interest of State of Bihar and certain period



covers under COVID-19 period, we proceed to condone the delay.

Accordingly, I.A. No. 1 of 2021 stands allowed.

2. With the consent of the learned counsels for the respective parties, the LPA is taken up for final disposal. Core issue involved in the present *lis* is whether respondents – Ram Prakash alias Ram Prakash Arya & Dilip Lakra after appointment to the post of constable on 19.06.1990 read with termination of Respondent No. 1 dated 04.06.2004 and Respondent No. 2 dated 02.09.2003 is in order or not?

3. Learned counsel for the appellants submitted that appointment of the respondents – Ram Prakash alias Ram Prakash Arya & Dilip Lakra to the post of constable are contrary to rules of recruitment governing the post of constable as on 19.06.1990. Therefore, question of holding inquiry is not attracted. Consequently, learned Single Judge has committed error in allowing CWJC No. 5480 of 2003 decided on 24.07.2019.

4. *Per contra*, learned counsel for the respondent resisted the aforementioned contention and supported the order of the learned Single Judge dated 24.07.2019 passed in CWJC No. 5480 of 2003.

5. Heard the learned counsels for the respective parties.



6. Perusal of the records, it is evident that appellants have not initiated disciplinary proceedings to the extent that selection and appointment of respondents – Ram Prakash alias Ram Prakash Arya & Dilip Lakra was contrary to rules of recruitment. Domestic inquiry is warranted for the reasons that respondent has discharged the duties of the post of constable from 19.06.1990 till the date of termination and relieving on 04.06.2004 and 02.09.2003. In other words, he had lien over the constable post in the light of the fact that he has worked during the intervening period from 1991 to 2003/2004.

7. Therefore, formal domestic inquiry was warranted before taking any action and it has not been resorted on behalf of the appellant. Taking note of the above issue we find no infirmity in the order of the learned Single Judge dated 24.07.2019 passed in CWJC No. 5480 of 2003.

8. Learned counsel for appellants submitted that initial appointment of respondent was not by the competent authority. Therefore, inquiry was not warranted. If it is by an incompetent authority action should have been taken at the earliest in the year 1991. No action had been taken against such authority who has selected and appointed respondent for these many years.



9. Accordingly, the present LPA No. 236 of 2020 stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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

