

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.34 of 2021
In
Civil Writ Jurisdiction Case No.8739 of 2003

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.
4. Deputy Inspector General of Police, Government of Bihar, Magadh Range, Gaya.
5. Superintendent of Police, Nawadah
6. Superintendent of Police Sheikhpura.

... .. Appellant/s

Versus

Ajit Narain Singh Son of Gobardhan Singh Resident of Vilalge- Alipur Dih,
Police Station-Parbalpur, District-Nalanda Erstwhile Constable No.89
Previously Posted as Constable in Police Line in Sheikhpura Police.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manoj Kumar, Advocate
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 : 16-02-2024

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 made out in the application and affidavit, to condone delay of 2 years 39 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 present LPA is taken up for final disposal. Core issue involved in the present *lis* is whether respondent – Ajit Narain Singh after appointment to the post of constable on 19.06.1996 read with termination on 14.07.2023 is in order or not?

3. Learned counsel for the appellants submitted that appointment of the respondent – Ajit Narain Singh to the post of constable is contrary to rules of recruitment governing the post of constable as on 19.06.1996. Therefore, question of holding inquiry is not attracted. Consequently, learned Single Judge has committed error in allowing CWJC No. 8739 of 2003 decided on 28.08.2018.

4. *Per contra*, learned counsel for the respondent resisted the aforementioned contention and supported the order of the learned Single Judge dated 28.08.2018 passed in CWJC No. 8739 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 respondent - Ajit Narain Singh 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 19.06.1996 till the date of termination on



14.07.2003. In other words, he has lien over the constable post in the light of the fact that he has worked during the intervening period from 1996 to 2003.

7. Therefore, formal domestic inquiry was warranted before taking any action and it has not been resorted on behalf of the appellant. Taking take of the above issue we find no infirmity in the order of the learned Single Judge dated 28.08.2018 passed in CWJC No. 8739 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 1996. No action had been taken against such authority who has selected and appointed respondent for these many years.

9. Accordingly, the present LPA No. 34 of 2021 stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
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