

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.25 of 2021

In

Civil Writ Jurisdiction Case No.5422 of 2003

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1. The State of Bihar Bihar.
 2. The Director General of Police, Government of Bihar, Patna Region, 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. Satyendra Narain @ Satyendra Narain Singh Son of Late Jhalakdeo Sharma Resident of Village- Shiyarampur, Police Station- Paliganj, Patna, previously posted as Constable in Nawada S.P.'s Office, Nawada, (erstwhile constable No. 318)
2. Satyendra Narain Singh Son of Sri Rajdeo Singh Resident of Village- Dhankaul, Police Station- Makadumpur, District- Jehanabad, Previously posted as Constable in Police Line, Nawada (erstwhile constable No. 263).

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Manoj Kumar, Advocate
For the Respondent/s : Mr.Rakesh Kumar Singh, Advocate
Mr.Dilip Kumar Jha, Advocate
Mr.Sonu Kumar Jha, 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. 2 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 1 year 141 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. 2 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 – Satyendra Narain alias Satyendra Narain Singh, S/o- Late Jhalakdeo Sharma & Satyendra Narain Singh, S/o- Rajdeo Singh 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 30.06.2004 is in order or not?

3. Learned counsel for the appellants submitted that appointment of the respondents – Satyendra Narain alias Satyendra Narain Singh, S/o- Late Jhalakdeo Sharma & Satyendra Narain Singh, S/o- Rajdeo Singh 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. 5422 of 2003 decided on 19.04.2019.

4. *Per contra*, learned counsel for the respondent resisted the aforementioned contention and supported the order of the learned Single Judge dated 19.04.2019 passed in CWJC No. 5422 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 – Satyendra Narain alias Satyendra Narain Singh, S/o- Late Jhalakdeo Sharma & Satyendra Narain Singh, S/o- Rajdeo 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 19.06.1990 till the date of termination and relieving on 04.06.2004 and 30.06.2004. 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 1990 to 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 19.04.2019 passed in CWJC No. 5422 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



1990. No action had been taken against such authority who has selected and appointed respondent for these many years.

9. Accordingly, the present LPA No. 25 of 2021 stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

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

