

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5971 of 2018

Most. Budhni Devi, Wife of Late Shobit Paswan, Resident of House No. 86/4,
Village- Budhnagra, Anchal- Bokhra, Police Station- Nanpur, District-
Sitamarhi.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Home Commissioner, Bihar, Patna.
3. The District Sitamarhi.
4. The Superintendent of Police, Sitamarhi.
5. The Sub-Divisional Officer, Sitamarhi East.
6. The Deputy Superintendent of Police, Sitamarhi.
7. The All Concerned officer-in-charge of the P.S. Under Sitamarhi, District.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Ojha, Advocate
For the Respondent/s : Mr.Partha Sarthi-GA4

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 13-02-2024

Heard learned counsel for the petitioner and learned
counsel for the State.

2. Learned counsel for the petitioner submits that
she has filed the present writ petition for quashing the office
order dated 26.12.2009 as contained in Memo No. 1510 by
which the District Magistrate, Sitamarhi has passed an order
pursuant to a decision dated 18.11.2008 of this Hon'ble Court in
CWJC No. 5794 of 1996.

3. Learned for the petitioner further submits that the
husband of the petitioner had challenged the Memo No. 1095



dated 06.12.1995 by which the salary of the petitioner's husband and others were stopped by the District Magistrate, Sitamarhi. The District Magistrate, Sitamarhi was directed vide order dated 18.11.2008 passed by this Hon'ble Court to verify if the power of delegation for appointment was issued by the then District Magistrate and whether the petitioners were regularly working as Chaukidar in the village where they had been posted till the letter of termination. The entire verification was directed to be concluded within three months and upon conclusion of investigation, if the petitioners are found duly appointed as Chaukidars, they may be paid their arrears of salary within a period of six months, if it is due to them. Further direction was issued to the District Magistrate that if the petitioners are found as regularly appointed Chaukidars, they should be allowed to join the post, provided there are vacancies on the said post of Chaukidars.

4. Counsel further submits that there is entitlement in the light of the order dated 18.11.2008 for the petitioner's husband as petitioner's husband was petitioner no.8 in the said writ petition and, therefore, he should also be granted benefit of the same. Learned counsel also submits that in page 5 of the counter affidavit (running page 23), it has been stated that the



appointment made by the Sub-Divisional Officer, Sitamarhi, East vide Memo No. 677 dated 01.06.1990 and Memo No. 1231 dated 03.09.1990 were given *post facto* approval and all the Chaukidars were allowed to join their post subject to the terms and conditions.

5. Learned counsel for the State submits that in the light of the pleading made by the petitioner, he has no case at all due to the reason that the petitioner was appointee of the year 1990 but definitely aggrieved in the year 1996 and only due to this reason, he became one of the petitioner of writ petition out of 29 petitioners. Learned counsel further submits that in compliance of the order passed by this Hon'ble Court dated 18.11.2008 fresh order has been passed, as contained in Memo No. 1510 dated 26.12.2009, which is Annexure-1 to the writ petition. In the said Memo, the name of the petitioner is not there. Counsel for the petitioner submits that if this is the correct position then the cause of action has arisen for the petitioner to sue before the Court just after passing of the order contained in Memo No. 1510 dated 26.12.2009, but instead of moving before this Hon'ble Court, he sat over the matter and moved before this Hon'ble Court in the year 2018, i.e. after lapse of about 28 years.



6. Upon perusal of the record, it transpires to this Court, that the name of the petitioner is there in the letter of 1990 about which there is categorical stand of the State that *post facto* approval has been granted to the petitioner's husband. It is true that in the writ petition, name of petitioner's husband is there, but it is also true that in Annexure -1, the name of petitioner is not there and this letter was published in the month of December 1990. Therefore the cause of action for the petitioner's husband to sue before the Court has arisen in December 1990 itself where Annexure -1 has been published, but instead thereof, the petitioner has filed the present writ petition after 28 years. Therefore, this Court is of the opinion that such delayed case cannot be entertained. As such, the present writ petition stands dismissed.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	15/02/2024
Transmission Date	NA

