

---

**(2004) 09 PAT CK 0016**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 14150 of 2003**

|                               |    |            |
|-------------------------------|----|------------|
| Bande Lal Tatma               | Vs | APPELLANT  |
| The State of Bihar and Others |    | RESPONDENT |

---

**Date of Decision :** 14-09-2004

**Acts Referred:**

**Citation :** (2004) 4 PLJR 617

**Hon'ble Judges :** Navin Sinha, J

**Bench :** Single Bench

**Advocate :** Ajey Kumar, for the Appellant; R.B.N. Singh for the State, for the Respondent

**Final Decision :** Allowed

---

## Judgement

Navin Sinha, J.—Heard learned counsel for the petitioner and learned counsel for respondents. The grievance of the petitioner in the present writ application is that though he was appointed as a Chaukidar on 14.6.1982 and Chaukidars were declared as Government servant on 1.1.1990, an ex-parte order was passed on 5.3.2000 removing him from service with effect from 30.4.2000. It is submitted that this appears to have been done by the respondents by making a change in the date of birth of the petitioner. Learned counsel for the petitioner submits that no notice whatsoever was issued to the petitioner, neither reasons were furnished to him to do away with his service. The submission is that it would appear that the respondents have acted unilaterally by making change in the date of birth and terminating him from service.

2. A counter affidavit has been filed on behalf of respondent no. 5. The averment of the petitioner to the effect that he was not served with any notice to show cause nor he was informed of the reasons and that the respondents appeared to have acted unilaterally in correcting the date of birth have not been denied.

3. In the aforesaid facts and circumstances, this court arrives at the conclusion that the action of the respondent in preventing the petitioner from discharging

his duty after 30.4.2000 by an unilateral act is contrary to law. The respondents would be, therefore, obliged to issue fresh notice upon the petitioner and after considering reply to the same as also an opportunity of personal hearing, should the petitioner so request, decide the matter afresh in accordance with law.

4. Further grievance of the petitioner with regard to non-payment of salary for period prior to 30.4.2000 shall also be considered by the respondents. Should the respondents decide the case adverse to the petitioner, they would be required to pass a reasoned and speaking orders. Notwithstanding pendency of the show cause filed and consideration of the reply, the respondents shall be obliged to independently consider the request of the petitioner for payment of arrears of salary prior to 30.4.2000 and take a decision thereupon forthwith. Should the petitioner be entitled to the same, it is expected that the respondents shall proceed to pay the same without undue delay. This writ application thus stands allowed.