

(2020) 09 PAT CK 0331

In the Patna High Court

Case No : Letters Patent Appeal No. 1734 Of 2017, Civil Writ Jurisdiction Case
No. 18512 Of 2014

Girijesh Kumar

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 25-09-2020

Acts Referred:

Indian Penal Code, 1860 — Section 212

Central Civil Services (Temporary Service) Rules, 1965 — Rule 5(1)

Citation : (2020) 09 PAT CK 0331

Hon'ble Judges : Dinesh Kumar Singh, J; Anil Kumar Sinha, J

Bench : Division Bench

Advocate : Kishore Kumar Thakur, Braj Kishore Singh, Rajesh Kumar, Rajesh Kumar Verma

Final Decision : Dismissed

Judgement

Heard Mr. Kishore Kumar Thakur, learned counsel for the appellant and Mr. Rajesh Kumar Verma, learned counsel appearing for Union of India.

The present Letters Patent Appeal has been preferred under Clause X Appendix E of the Patna High Court Rules challenging the judgement dated

16.10.2017 passed by the learned Single Judge in CWJC No. 18512 of 2014, whereby the appellant's prayer for quashing his termination from the

post of Constable in Central Reserve Police Force, has been rejected since earlier writ application with similar prayer was dismissed on merits with

liberty to avail the alternative remedy of appeal and thereafter the appellate authority also dismissed the appeal of the appellant.

The factual matrix of the case is that the appellant was appointed as Constable in Central Reserve Police Force on 14.4.2011. The appointment letter

was issued under the signature of the Deputy Inspector General of Police, Group

Centre, Mokamaghat (Bihar). Clause (g) of the appointment letter

required that on joining, the appointee has to submit his character certificate and antecedent report duly filled in an application. The appointment letter

also stipulates that if on verification regarding character or antecedent of the concerned appointee any adverse report is received, his services will be

terminated.

The appellant joined under probation and submitted a duly filled character certificate and antecedent report but on verification by the Department, it

was found that the appellant was accused in Rampur Chauram P.S. Case No. 48 of 2010 registered on 17.12.2010, under Section 212 of the Indian

Penal Code and in the said case, the appellant was on police bail but while submitting the application regarding his character and antecedent, a

statement was made to the effect that he is not involved in any criminal case. Such declaration is Annexure C to the counter affidavit filed on behalf

of the respondents in the writ application. On finding the wrong declaration being made by the appellant, vide order dated 25.8.2013 issued by the

Commandant, 14th Battalion, Central Reserve Police Force, Sophiya (Jammu & Kashmir), the services of the appellant came to be terminated in

accordance with the provision under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965.

The said order of termination was challenged by the appellant through a writ application being CWJC No. 622 of 2014. The learned Single Judge, after

hearing the parties, dismissed the writ application since there was no infirmity in the order of termination. Paragraph 5 of the order reads as follows:

“I do not find any infirmity with the impugned order which has been passed in the background of facts noted above. This application is accordingly

dismissed.”

However, the learned Single Judge, while dismissing the writ application, gave liberty to the appellant to avail the alternative remedy of appeal before

the appellate authority. Subsequently, the appellant moved before the appellate authority but the appellate authority being Inspector General of Police,

Rajasthan Sector, Jaipur also dismissed the appeal of the appellant vide order dated 14th July, 2014 on the ground that the appellant has made wrong

declaration to the effect that he is not accused in any criminal case while filling up the application form and on verification it was found that the

appellant was accused in one case. Thereafter, the appellant again preferred a writ application against the appellate order through CWJC No. 18512

of 2014. The learned Single Judge dismissed the writ application on the ground that in earlier round the learned Single Judge has already dismissed the

writ application on merits and the appellate authority also dismissed the appeal. Relevant portion of the impugned judgement reads as follows:

“Having considered the submissions of both the sides, I find that against the order of termination the petitioner moved before this Court in C.W.J.C.

No. 622 of 2014 and this Court dismissed the writ petition of the petitioner holding that the order of termination does not suffer any illegality or

infirmity. The appellate authority also dismissed the appeal. Therefore, I do not think it proper to go into the merit of the case, once again, which had

already been concluded by dismissing the writ petition of the petitioner on earlier occasion.”

Against the said judgement of the learned Single Judge, the present Letters Patent Appeal has been preferred.

Learned counsel for the appellant submits that the appellant did not have the knowledge that he has been implicated in a criminal case and due to

inadvertence, he gave such declaration in the application form at the time of joining. However, he has not controverted the fact that prior to his

appointment, he was on police bail in the said criminal case.

Learned counsel appearing for the Union of India submits that there was clear stipulation in the appointment letter that if the declaration with regard to

character or antecedent is found wrong, then the services of the appointee will be terminated. Moreover, in the first round, the learned Single Judge

has held that there is no infirmity in the order of termination since the appellant was on police bail. Hence, the appellant had the knowledge prior to his

appointment that he was an accused in a criminal case, but he deliberately made a wrong declaration with regard to his criminal antecedent. As such,

there is no merit in the present appeal.

Considering the rival submissions of the parties, this Court is of the view that in the letter of appointment there is clear stipulation that the services of

the appointee will be terminated if the declaration with regard to character or antecedent is found wrong. This is an admitted position that the appellant

filled up the application form at the time of joining and made a clear statement

that he is not involved in any criminal case. This is also an admitted position that the appellant is accused in Rampur Chauram P.S. Case No. 48 of 2010 registered on 17.12.2010, under Section 212 of the Indian Penal Code and in the said case he is on police bail. The very fact of the appellant being on police bail suffices to indicate that the appellant was having the knowledge of his implication in a criminal case.

Clause (g) of the appointment letter clearly stipulates that with regard to character certificate and antecedent report, the appointee has to fill up the information himself and on verification if some wrong information is found in the declaration then the services of the appointee will be terminated.

Clause (g) of the appointment letter reads as follows:

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In view of the admitted position that the appellant made a wrong declaration and as per the terms of appointment, the wrong declaration entails

termination, we do not find any infirmity in the impugned judgement of the learned Single Judge.

Accordingly, the present Letters Patent Appeal is dismissed.