
(2007) 02 PAT CK 0203
In the Patna High Court
Case No : CWJC No. 12005 of 2006

Md. Manzoor Alam

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-02-2007

Acts Referred:

Citation : (2007) 2 PLJR 538

Hon'ble Judges : Brain Ghosh, J

Bench : Single Bench

Advocate : Awadhesh Kr. Mishra and Shushil Chandra Keshri, for the Appellant;
G.K. Agarwal, for the Respondent

Judgement

Brain Ghosh, J.—From the pleadings it is clear that on special grounds the petitioner was appointed as a Constable. He was not appointed upon complying Rule 661B as prescribed in the Police Manual. The said Rule having been created by the Government, in exceptional circumstances, the Government could relax the same. None of the Officers of the Government could, however, relax the said Rule. To that, there is a judgment which is binding on me. In the instant case, there is no dispute that the Government relaxed the said Rule to appoint the petitioner as a reward for his bravery. It appears that many appointments were given on special ground during the tenure of Mr. S.K. Saxena when he was the Director General of Police, Bihar. Those appointments were investigated, which revealed that some of such appointments were illegal. Instructions were accordingly issued to bring to an end such appointments. As a result, the petitioner has been told that his appointment was irregular and, accordingly, by the impugned order, his services too were terminated.

2. There is no issue that the decision to appoint the petitioner as a constable on special ground was the decision of the Government. The Government consciously relaxed the Rule to appoint the petitioner. It is not the Director General of Police, Mr. S.K. Saxena, who relaxed the Rules for appointing the petitioner. It neither appears from the impugned order nor it is the contention in the counter affidavit

that the facts upon which the relaxation could be effected were non-existent.

3. In those circumstances, having had appointed the petitioner on 1st June, 1997 in the circumstances as above, on 1st March, 2002 by the impugned order the petitioner could not be told that such appointment is irregular/illegal. The matter must thus be concluded and, accordingly, the order dated 1st March, 2002 is set aside.

4. The petitioner shall be reinstated within a period of one month from today but shall not be entitled to salaries for the period 1st March, 2002 until the date of his reinstatement, but the said period shall be counted as the period spent on duties for the purpose of determining qualifying service for pension and other purpose including grant of increments. Non-performance of duties for the said period shall not be treated as a break in service. The writ petition is accordingly disposed of.