

(1995) 01 PAT CK 0036
In the Patna High Court
Case No : C.W.J.C. No. 7698 of 1993

Mohammad Ibne Azam

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-01-1995

Acts Referred:

Citation : (1995) 2 PLJR 651

Hon'ble Judges : N. Pandey, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N. Pandey, J.—Heard learned Counsel for the Petitioner as also learned Counsel, appearing on behalf of the State.

2. This writ application has been filed for quashing an order dated 18th October, 1992, passed by the Deputy Inspector General of Police, Koshi Division, Saharsa, whereby and where under, the services of the Petitioner have been terminated with effect from 19th October, 1992.

3. It appears the Petitioner was appointed as a Constable on 25th December, 1991 by the Superintendent of Police, Saharsa. Thereafter, the Petitioner continued to work till 12th December, 1992, which will be apparent from the letter of the Superintendent of Police, addressed to the Deputy Inspector General of Police, Koshi Division, Saharsa, a copy of which is Annexure-5 to the writ petition.

4. From the impugned order, it appears that according to Respondent No. 3 (Deputy Inspector General of Police, Koshi Division, Saharsa), the appointment of the Petitioner was made on the basis of certain irregularities. No reason, however, has been assigned as to what were the irregularities according to Respondent No. 3.

5. Learned Counsel, appearing for the Petitioner, contended that the impugned

action of the authority is without any notice and opportunity to the Petitioner. He further submits that from the letter of the Superintendent of Police, Saharsa, contained in Annexure-5, addressed to Respondent No. 3, also it would appear that no opportunity was given to the Petitioner nor a fresh measurement of his height and chest was made. From the letter of the Superintendent of Police (Annexure-5), it appears that as per the records, available in his office, the height of the Petitioner was 172 cm. whereas chest was 81 cm.

6. A counter affidavit has been filed on behalf of the State, taking a stand that certain irregularities were committed at the time of the Petitioner's appointment, therefore, it was considered proper by Respondent No. 3 to terminate such appointments.

However there is no denial of the statement of the Petitioner that the impugned decision was taken without any notice or opportunity. From the letter of the Superintendent of Police, contained in Annexure-5, it would be apparent that the Petitioner continued to work till 12th December, 1992. Therefore, there is no dispute that the order of appointment was given effect and he got salary.

8. In the background of the facts stated above, in my view, the impugned action of the Respondent is wholly unjust since it is violative of the principles of natural justice. If there were some irregularities, according to Respondent No. 3 it was proper for him to give notice to the Petitioner, calling upon him to file show cause and then to decide the matter. But unfortunately, without following the aforesaid procedure, the impugned decision has been taken.

9. In the facts and circumstances of the case, stated above, I have no option but to quash the impugned order with a direction to Respondent No. 3 to examine the matter afresh after giving proper opportunity to the Petitioner and pass the appropriate order in accordance with law.

10. While dealing with the matter, Respondent No. 3 is also required to take notice of the request of the Superintendent of Police, Saharsa, made vide letter dated 12th December, 1992, a copy of which is Annexure-5 to the writ petition. Final decision in terms of the observations, made above, must be taken within three months from the date of production/receipt of a copy of this order.

11. In the result, this writ application is allowed to the extent, indicated above, and the order dated 18th October, 1992, contained in Annexure-2, as also the consequential order are hereby quashed.