

Arbind Kumar Vs. State of Jharkhand and ors.

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SooperKanoon Citation : sooperkanoon.com/517936

Court : Jharkhand

Decided On : Mar-31-2004

Reported in : [2004(3)JCR230(Jhr)]

Judge : M.Y. Eqbal, J.

Acts : Service Laws; [Constitution of India](#) - Article 226

Appeal No. : WP(S) No. 1760 of 2003

Appellant : Arbind Kumar

Respondent : State of Jharkhand and ors.

Disposition : Appeal allowed

Judgement :

ORDER

M.Y. Eqbal, J.

1. Heard Mr. Radheshyam, learned counsel appearing for the petitioners and learned JC to Advocate General.

2. In this writ application. the petitioner has prayed for quashing the orders issued Memo Nos. 593, 594 and 596 dated 30.1.2003 whereby respondent No. 5. Superintendent of Police, Dhanbad terminated the services of the petitioners.

3. In W.P.S. No. 1784 of 2003, petitioners' case is that in the year 1996 the Superintendent of Police, Dhanbad vide letter dated 24.8.1996 recommended for appointment of petitioner No. 1, on the post of Constable and sought for direction from the Director General-cum-Inspector General of Police, Bihar, Patna. By letter dated 27.9.1996, the decision of the Director- cum-Inspector General of Police, Bihar, Patna was communicated to respondent No. 5, for appointment of petitioner No. 1, in the post of Constable due to his co- operation with the police force. Photocopy of the aforesaid two letters are annexed as Annexures-1 and 2 to this writ application. Accordingly, petitioner was appointed on the post of Constable in 1996 and he joined in the district of Dhanbad. Similarly, petitioner No. 2 also in terms of the direction of Director General of Police, Bihar, Patna appointed in the year 1996 on the post of Constable. Both the petitioners submitted their joining and they were sent for training. After completion of training and after getting special training of Commando they joined on the post of Police Constables in the district of Dhanbad.

4. Similarly, in WPS No. 1760/2003 the case of the petitioner is that petitioner's father was an Assistant Sub-Inspector of Police. During patrolling duty on 2.8.1997 he met with an accident and got injured and thereby his right leg was amputated. Petitioner further filed an application before the Superintendent of Police, Dhanbad on 30.10.97 for appointment of his son on sympathetic consideration. The said letter was referred/recommended by respondent No. 5, Superintendent of Police, Dhanbad to the Inspector General of Police, Bihar, Patna vide letter dated 6.12.1997 for considering the prayer of the father of the petitioner and accordingly respondent No. 3, vide memo dated 31.3.1998 recommended the case of the petitioner for appointment and accordingly petitioner was appointed on the post of Constable and he was sent for training and also after successful completion of training he was posted on the post of Constable in the district of Dhanbad. After serving number of years their services have been terminated by the respondents on the ground that while making appointment, the procedure provided in the Police Manual was not followed.

5. Respondents in their counter affidavit have stated that appointment of the petitioner was against the procedure provided in the Police Manual and hence

were illegal. It is stated that no absolute power vested in any authority to appoint any person without following procedure.

6. The specific case of the petitioners is that after their appointment they were sent for training and after completion of training they were posted as Constables in the district of Dhanbad. These facts have not been denied or disputed by the respondents. It has not been disputed that petitioners continuously worked on the post of Constables since 1996-97. Petitioners satisfactorily discharged their duty as Constables for the last so many years. In that view of the matter, I am of the opinion that the case of the petitioners are covered by the judgment and orders passed in WPS Nos. 2087/2002 and in WPS No. 3023/ 2003. In my opinion, therefore, there is no justification to terminate the services of the petitioners without issuing any show cause notice merely on the ground that Rules provided in the Police Manual were not followed. The impugned orders, therefore, cannot be sustained in law.

7. For the reasons aforesaid, these writ applications are allowed and the impugned orders of termination are quashed. Petitioners shall be reinstated in service but they shall not claim any salary or wages for the period they remain out of service.