

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4936 of 2026

Shahid Eqwal S/o late Moid Ahmad, Resident of Village - Azimabad, P.O. -
Baga, P.S. - Azimabad, Distt. - Bhojpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Director General of Police, Govt. of Bihar, Patna.
4. The Additional Chief Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
5. The Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.
6. The Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
7. The Additional Secretary, Home Department (Police Branch) Govt. of Bihar, Patna.
8. The Special Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
9. The Deputy Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
10. The Under Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
11. The Bihar Public Service Commission through the Secretary, Bihar Public Service Commission, Jawahar Lal Nehru Marg, Baily Road, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12375 of 2025

Sanjeev Kumar S/O Sri Adyanand Kunwar, Resident of Village- Makandpur,
P.O.- Rannuchak Makandpur, P.s.- Nath Nagar, District- Bhagalpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Additional Chief Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.



4. The Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.
5. The Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
6. The Additional Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
7. The Special Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
8. The Deputy Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
9. The Under Secretary, Home Department (Police Branch), Govt. of Bihar, Patna.
10. The Bihar Public Service Commission, through the Secretary, Bihar Public Service Commission, Jawahar Lal Nehru Marg, Bailey Road, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 4936 of 2026)

For the Petitioner/s	:	Mr. Surendra Kumar Singh, Advocate
For the State	:	Mr. S. D. Yadav, AAG-9 Mr. Braj Bhushan Mishra, AC to AAG-9
For the BPSC	:	Mr. Sanjay Pandey, Advocate Mr. Nishant Kumar Jha, Advocate Mr. Prabhakar Pahepuri, Advocate

(In Civil Writ Jurisdiction Case No. 12375 of 2025)

For the Petitioner/s	:	Mr. Ranjeet Kumar Pandey, Advocate Mr. Rajesh Kumar, Advocate
For the State	:	Mr. S. D. Yadav, AAG-9 Mr. Braj Bhushan Mishra, AC to AAG-9
For the BPSC	:	Mr. Sanjay Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

C.A.V. JUDGMENT

Date : 23-09-2026

Re. CWJC No.4936 of 2026.

The present writ petition has been filed for the following relief/s :-

“i. For issuance of



writ/writs, order/orders of direction/directions in the nature of certiorari for setting aside decision as contained in the Letter No. 3011 dated 27 Feb 2026 (Annexure-P/1) issued under the signature of Under Secretary to the Government, Home Department (Police Branch), Government of Bihar, whereby and where under request of the petitioner vide application dated 09.10.2025 & 07.02.2026 (Reminder-1) to accept his joining to the post of Deputy Superintendent of Police (Dy. SP) in Bihar Police Service (60-62 Batch) or (63rd Batch) has been rejected.

ii. For issuance of a writ/writs, order/orders or direction/directions in the nature of certiorari for setting aside communication as contained in letter no. 6267 dated 27.06.22 (Annexure-P-1) issued under the signature of Deputy Secretary to the Government, Home Department(Police Branch), Government of Bihar, whereby and where under on the request of the petitioner for extension of time for his joining on the post of Deputy Superintendent of Police in Bihar



Police Service till final decision in the case candidature has been cancelled by the competent authority and a decision has been taken to forward the available vacancy for the next combined examination.

For issuance of a writ/writs, order/orders or direction/ directions in the nature of mandamus directing the Respondent Authorities to accept the joining of the petitioner on the post of Deputy Superintendent of Police (Dy. SP) in Bihar Police Service (60-62nd Batch) or (63rd Batch) as the petitioner cannot be allowed to suffer for no fault of his own.

iv. For issuance of a writ/writs, order/orders or direction/ directions in the nature of mandamus commanding/directing the Respondent authorities to accept the joining of the petitioner on the post of Deputy Superintendent of Police in Bihar Police Service as after completing all the formalities, the petitioner was declared successful but he could not give his joining within time because his request for relieving was rejected by the Indian Air Force where the petitioner was working but



subsequently discharged on completion of regular engagement of 20 years and as such there is no fault on the part of the petitioner.

v. For any other relief/reliefs for which the petitioner may be found entitle in the facts and the circumstances of the case as also in the eye of law may also be granted in favour of the petitioner.

2. The brief facts of the case is that the petitioner, while serving in the Indian Air Force and posted at 7 Wing, Air Force Station, Ambala Cantt., applied through the proper channel for the 60th–62nd and 63rd Combined Competitive Examinations conducted by the Bihar Public Service Commission (BPSC) after obtaining due permission from the competent authority. He successfully qualified the preliminary and mains examinations of both batches, appeared in the interview after obtaining a No Objection Certificate (NOC) from the Indian Air Force, and was ultimately selected for appointment to the post of Deputy Superintendent of Police under the Government of Bihar. After completion of certificate verification, the petitioner was directed to join the post within the stipulated period, subject to submission of a relieving order from his employer. Accordingly, he applied to the Indian Air



Force for discharge from service. However, his request was rejected on the ground that he had been selected for a Group 'B' post, whereas the NOC had allegedly been granted for appearing for a Group 'A' post, despite the BPSC advertisement not specifying the classification of the post. Aggrieved by the rejection, the petitioner challenged the order before the Armed Forces Tribunal, Principal Bench, New Delhi, by filing Original Application No. 1423 of 2019. During the pendency of the proceedings, he continued in service and was eventually discharged from the Indian Air Force on 30.09.2025 upon completion of his regular tenure of 20 years. Consequently, the Original Application was disposed of as having become infructuous. Thereafter, the petitioner submitted representations dated 09.11.2025 and 07.02.2026 before the Home Department (Police Branch), Government of Bihar, requesting permission to join the post of Deputy Superintendent of Police by enclosing his discharge order and other relevant documents. However, the said request was rejected vide Letter No. 3011 dated 27.02.2026.

3. According to the petitioner, the dispute does not concern his eligibility, merit, or selection. The only issue requiring consideration is whether his inability to join within



the stipulated period, occasioned solely due to his compulsory military service and the refusal of the Indian Air Force to relieve him, can be treated as voluntary non-joining so as to attract the General Administration Department Resolution dated 16.07.2007.

4. In order to substantiate his argument, learned counsel for the petitioner relied upon the judgement rendered in the case of ***E. P. Royappa v. State of Tamil Nadu*** reported in ***(1974) 4 SCC 3*** wherein the Hon'ble Supreme Court of India has held that arbitrariness is antithetical to equality.

4.1 Learned counsel further relied upon the case of ***Maneka Gandhi V. Union of India*** reported in (1978) 1 SCC 248 wherein it was held that every state action must be fair, just and reasonable.

4.2 Learned counsel further referred to the case of ***Narender Singh v. State of Haryana*** reported in ***(2022) 3 SCC 286*** wherein at paragraph 7.1, 7.2, 7.3 and 8 it has been held that a meritorious candidate cannot be denied appointment for no fault attributable to him merely because the employer failed to complete the necessary administrative process within time. The said principle was followed and applied in the case of ***Kumari Laxmi Saroj V. State of Uttar***



Pradesh (Civil Appeal No. 9040 of 2022, decided on 15.12.2022, para 4.2 and 6 whereof it has been held that a candidate should not suffer on account of delay attributable to a statutory authority.

5. Learned counsel further submits that petitioner's case stands on the same equitable footing. Having continuously perused his discharge, legal remedies and representations he ought not to be deprived of the fruits of a lawful public selection for circumstances wholly beyond his control.

Re. CWJC No.12375 of 2025.

6. The present writ petition has been filed for the following relief/s :-

“i. For issuance of a writ/writs, order/orders or direction/directions in the nature of certiorari for setting aside decision as contained in letter no.2745 dated 05.03.2025 issued under the signature of Deputy Secretary to the Government, Home Department (Police Branch), Government of Bihar, whereby and where under request of the petitioner vide application dated 09.01.2025 to accept his joining on the post of Deputy Superintendent of Police (Dy. SP) in Bihar Police Service (60-62 Batch) has been



rejected.

(ii) For issuance of a writ/writs, order/orders or direction/ directions in the nature of certiorari for setting aside communication as contained in letter no.10137 dated 10.10.2022 issued under the signature of Deputy Secretary to the Government, Home Department (Police Branch), Government of Bihar, whereby and where under on the request of the petitioner for extension of time for his joining on the post of Deputy Superintendent of Police in Bihar Police Service till final decision in the case filed by the petitioner, he has been communicated that his candidature has been cancelled by the competent authority and a decision has been taken to forward the available vacancy for the next combined examination.

iii. For issuance of a writ/writs, order/orders or direction/directions in the nature of mandamus directing the respondent authorities to accept the joining of the petitioner on the post of Deputy Superintendent of Police (Dy. SP) in Bihar Police Service (60-62 Batch) as the petitioner cannot be allowed to suffer for none of his fault.

iv. For issuance of a writ/writs, order/orders or direction/directions in the nature of mandamus directing the



respondent authorities to accept the joining of the petitioner on the post of Deputy Superintendent of Police in Bihar Police Service as after completing all the formalities, the petitioner was declared successful but he could not give his joining within time because his request for NOC and discharge was rejected by the Indian Air Force where the petitioner was working but subsequently as per direction of Hon'ble Delhi High Court, no objection certificate and discharge certificate has been granted in favour of the petitioner and as such there is no fault on the part of the petitioner.

v. For any other relief/reliefs for which the petitioner may be found entitle in the eye of law may also be granted in favour of the petitioner.

7. The petitioner joined the Indian Air Force as an Aircraftsman on 27.09.2005 and was subsequently promoted to the rank of Corporal on 01.01.2010 and Sergeant on 03.10.2018. While posted at Headquarters Training Command, Bangalore, the Bihar Public Service Commission (BPSC) issued Advertisement dated 15.09.2016 for the 60th–62nd Combined Competitive Examination. The petitioner applied pursuant thereto and successfully qualified the Preliminary Examination, Main Examination and interview. He was provisionally selected



for appointment to the post of Deputy Superintendent of Police under the Government of Bihar vide result dated 01.02.2019, and his name also appeared in the notification dated 27.06.2019 issued by the Home Department publishing the list of provisionally appointed Probationary Deputy Superintendents of Police. Prior to joining, the petitioner applied to the Indian Air Force on 05.03.2019 for grant of a No Objection Certificate (NOC)/Discharge Certificate. However, the request was rejected on 16.04.2019, preventing him from joining the post. Aggrieved thereby, the petitioner instituted W.P. (C) No. 6164 of 2019 before the Hon'ble High Court of Delhi challenging the rejection of NOC. During the pendency of the said writ petition, the petitioner kept the respondent authorities informed about the proceedings and sought extension of the joining period, which was extended from time to time between 24.07.2019 and 13.12.2021. The writ petition remained pending for a considerable period, inter alia, on account of the Covid-19 pandemic. Ultimately, by order dated 16.10.2024, the Hon'ble High Court of Delhi directed the Indian Air Force to reconsider the petitioner's request, pursuant to which he was discharged from service with effect from 20.12.2024. Thereafter, the writ petition was disposed of on 23.12.2024 granting liberty to the



petitioner to approach the State of Bihar for further action regarding his appointment. Pursuant thereto, the petitioner submitted a representation dated 09.01.2025 before the Home Department seeking permission to join the post of Deputy Superintendent of Police. However, the same was rejected vide Letter No. 2745 dated 05.03.2025.

8. According to the respondents, despite repeated extensions of the joining period, the petitioner failed to join within the prescribed time and, therefore, in terms of Resolution No. 2374 dated 16.07.2007, the vacancy was carried forward to the subsequent requisition vide Letter No. 6267 dated 27.06.2022.

9. The petitioner's case, however, is that he was at all times ready and willing to join but was prevented from doing so solely due to the refusal of the Indian Air Force to grant the requisite NOC/Discharge Certificate. It is his specific case that the respondents themselves acknowledged the exceptional circumstances by repeatedly extending the joining period and that the Resolution dated 16.07.2007 has no application to his case. It is further asserted that the vacancy continues to exist, as reflected from subsequent recruitment advertisements, and that the decision cancelling his candidature was taken without



affording him any opportunity of hearing. Aggrieved by the rejection of his representation and denial of appointment despite his eventual discharge from the Indian Air Force, the petitioner has approached this Court by filing the present writ petition.

10. In support of his submissions, learned counsel for the petitioner has placed reliance upon the following decisions: (i) ***Narender Singh v. State of Haryana & Others***, (2022) 3 SCC 286 : Civil Appeal No. 321 of 2022, decided on 18.01.2022, particularly paragraphs 7.1, 7.2, 7.3 and 8; (ii) ***Kumari Laxmi Saroj & Others v. State of Uttar Pradesh & Others***, Civil Appeal No. 9040 of 2022 (arising out of SLP (C) No. 14252 of 2022), decided on 15.12.2022, particularly paragraphs 4.2 and 6; and (iii) ***East Coast Railway & Another v. Mahadev Appa Rao & Others***, (2010) 7 SCC 678 : 2022 SCC OnLine SC 1718, Civil Appeal No. 4964 of 2010 (arising out of SLP (C) No. 27153 of 2008), particularly paragraphs 20, 21 and 24, (iv) ***E. P. Royappa V. State of Tamil Nadu*** reported in (1974) 4 SCC 3 and (v) ***Maneka Gandhi V. Union of India*** reported in (1978) 1 SCC 248.

11. It is submitted by learned counsel appearing on behalf of the petitioner in both the cases that the controversy involved in both the writ petitions is identical inasmuch as both



the petitioners were serving in the Indian Air Force, were duly selected by the Bihar Public Service Commission for appointment to the post of Deputy Superintendent of Police after successfully clearing all stages of the selection process, and were prevented from joining solely because the Indian Air Force declined to grant them the requisite No Objection Certificate/Discharge Certificate. It is submitted that the petitioners were at all times ready and willing to join the service and had promptly approached the competent authorities seeking extension of time, while simultaneously pursuing their legal remedies before the appropriate judicial forums against the refusal of the Air Force authorities.

12. It is further submitted that after the impediment stood removed and the petitioners were discharged from service, they immediately approached the Home Department with all relevant documents seeking permission to join. However, their requests were rejected mechanically by invoking the General Administration Department Resolution dated 16.07.2007, treating their cases as instances of non-joining. According to learned counsel, the said Resolution has no application to the peculiar facts of the present cases, as the petitioners never voluntarily failed to join but were prevented from doing so due



to circumstances entirely beyond their control.

13. Learned counsel further submits that the dispute does not concern the petitioners' eligibility, merit or selection, but only the inability to join owing to their statutory obligations in the Indian Air Force. It is contended that the petitioners cannot be made to suffer for reasons not attributable to them, particularly when they had been diligently pursuing their legal remedies and continuously informing the respondent authorities of the pendency of the proceedings. The impugned orders are, therefore, arbitrary, unreasonable and violative of Articles 14 and 16 of the Constitution of India. Therefore, they submits that a selected candidate cannot be denied appointment for reasons beyond his control and that every State action must be fair, just, reasonable and free from arbitrariness.

Submissions on behalf of the State

14. In CWJC No. 4936 of 2026, learned counsel for the State submits that the present application is liable to be dismissed as it is settled principle of service jurisprudence that a candidate who does not join within the stipulated or extended time forfeits his claim to the appointment. The petitioner was granted multiple extension over a prolonged period of nearly three years to join the said post but despite such extension, he



failed to join.

15. Learned counsel further submits that mere inclusion in a select list or issuance of a provisional appointment does not confer an indefeasible right to appointment. He further submits that the action of the respondent authorities is fully in consonance with the Resolution No. 2374 dated 16.07.2007 issued by the General Administration Department, Bihar which clearly provides that the joining must be made within the stipulated period and in case of non-joining, the vacancy is to be carried forward to the next requisition. Thus, the cancellation of the candidature and carry-forward of vacancy is statutorily backed and policy-driven, leaving no scope for arbitrariness.

16. In response to the said submissions, learned counsel for the petitioner submits that subsequent carry forward of the vacancy cannot be permitted to defeat an otherwise meritorious claim arising from circumstances wholly beyond the petitioner's control. He further submits that the vacancy notifications already brought on record disclose 136 vacancies in the 70th BPSC combine competitive examination, 14 vacancies in the 71st BPSC combined competitive examination, and 22 vacancies in the 72nd BPSC combined competitive examination, demonstrating that grant of relief is neither



impossible nor administratively unworkable and the relief sought by the petitioner is equitable.

17. In CWJC No. 12375 of 2025, learned counsel appearing for respondent Nos. 3 to 9 submits that a counter affidavit has been filed controverting the averments made in the writ petition. It is submitted that the petitioner was provisionally selected for appointment to the post of Deputy Superintendent of Police pursuant to the 60th–62nd Combined Competitive Examination conducted by the Bihar Public Service Commission, and was appointed vide Notification No. 5088 dated 27.06.2019 (Annexure-A to the counter affidavit).

18. It is submitted that, at the request of the petitioner, the Home Department extended the period for joining on several occasions and repeatedly directed him to join within the extended period, as would appear from Annexure-B series to the counter affidavit. However, despite such extensions, the petitioner failed to join the post.

19. Learned counsel further submits that in terms of paragraphs 15 and 16 of Resolution No. 2374 dated 16.07.2007 issued by the General Administration Department, Government of Bihar (Annexure-C to the counter affidavit), where a selected candidate fails to join within the prescribed



period, the resultant vacancy is required to be carried forward to the next requisition. Accordingly, since the petitioner failed to join despite repeated opportunities, the vacancy against which he had been selected was carried forward vide Letter No. 6267 dated 27.06.2022, and the petitioner was duly informed thereof vide Letter No. 10137 dated 10.10.2022.

20. It is further submitted that thereafter the Home Department, by Letter No. 7903 dated 05.07.2023 (Annexure-E), forwarded the requisition to the General Administration Department for filling up the said vacancy through the 69th Combined Competitive Examination. The said examination has since been concluded, and the selected candidates have already been appointed to the post of Deputy Superintendent of Police vide Notification No. 16050 dated 28.12.2024 (Annexure-F).

21. Learned counsel submits that although the petitioner had challenged the refusal of the Indian Air Force to grant a No Objection Certificate before the Hon'ble High Court of Delhi in W.P. (C) No. 6164 of 2019, the Home Department had filed its counter affidavit in the said proceedings on 26.11.2019, specifically stating that the vacancy would be dealt with in accordance with Resolution No. 2374 dated 16.07.2007 and the settled principles of service jurisprudence. It is



submitted that while disposing of the writ petition on 23.12.2024, the Hon'ble High Court merely granted liberty to the petitioner to approach the State authorities for consideration of his claim in accordance with law and did not issue any direction for his appointment.

22. It is lastly submitted that the petitioner's representation dated 09.01.2025 was duly considered by the Home Department in accordance with the applicable policy and the aforesaid Resolution. Since the vacancy had already been carried forward and filled up in the subsequent recruitment process, the petitioner's request was rightly rejected vide Letter No. 2745 dated 05.03.2025. It is, therefore, submitted that the impugned action is in accordance with law and the writ petition, being devoid of merit, is liable to be dismissed.

Submissions on behalf of the BPSC.

23. Learned counsel appearing for the Bihar Public Service Commission (BPSC) submits that the Commission has filed a counter affidavit stating that its role is confined to conducting the selection process on the basis of the requisition, recruitment rules and conditions prescribed by the requisitioning department of the State Government. It is submitted that the Commission has no role in the matter of appointment, extension



of joining time or acceptance of joining after completion of the selection process.

24. Learned counsel submits that upon receipt of requisitions from various departments of the Government of Bihar, the Commission issued the advertisement for the 60th–62nd Combined Competitive Examination for filling up 642 vacancies in different Class-II Gazetted posts. The petitioner applied pursuant to the said advertisement, qualified in the Preliminary Examination, thereafter in the Main Examination, and was finally declared successful after the interview. His name was recommended for appointment to the post of Deputy Superintendent of Police, along with other successful candidates, vide Letter No. 04 dated 09.04.2019 addressed to the Home Department. With the forwarding of the recommendation, the Commission's role in the selection process came to an end.

25. It is further submitted that the petitioner has no grievance against the Commission, as the issues raised in the present writ petition pertain to appointment and joining, which fall exclusively within the domain of the Home Department, Government of Bihar. The Commission has, therefore, been impleaded only as a formal party and has also requested the



Additional Chief Secretary, Home (Police) Department, vide Letter No. 2271 dated 25.08.2025, to place the relevant facts before this Court by filing a detailed counter affidavit.

26. Learned counsel further submits that after completion of the 60th–62nd Combined Competitive Examination, the Commission has conducted the selection process for the 63rd to 69th Combined Competitive Examinations, pursuant to which appointments have already been made by the State Government. It is also submitted that the Commission has conducted the Main Examination for the 70th Combined Competitive Examination and has recently declared the result of the 71st Combined Competitive Examination.

27. It is, therefore, submitted that the Commission has discharged its statutory functions strictly in accordance with the applicable recruitment rules and the requisitions received from the State Government. Since no relief is claimed against the Commission and no cause of action survives against it, the writ petition, so far as the Commission is concerned, deserves to be dismissed.

28. After hearing the learned counsel for the parties in both the writ petitions, it transpires that both the petitioners had applied pursuant to the advertisement issued by the Bihar



Public Service Commission (BPSC) for appointment to the post of Deputy Superintendent of Police in the Bihar Police Service pursuant to the 60th–62nd and 63rd Combined Competitive Examinations, respectively, through proper channel and after obtaining due permission from the competent authority. Both the petitioners qualified in the Preliminary Examination, Mains Examination and Interview and were thereafter provisionally selected for appointment to the post of Deputy Superintendent of Police. They were directed to join the said post subject to submission of the relieving order/NOC/discharge certificate from their respective employer. Thereafter, both the petitioners approached their employer, namely, the Indian Air Force, seeking issuance of the requisite No Objection Certificate/discharge certificate. However, as the requisite NOC/discharge certificate was not issued by the Indian Air Force, the petitioner in CWJC No.4936 of 2026 approached the Armed Forces Tribunal, Principal Bench, New Delhi, by filing Original Application No. 1423 of 2019 whereas the petitioner in CWJC No.12375 of 2025 approached the Hon'ble High Court of Delhi by filing W.P.(C) No. 6164 of 2019.

29. The petitioner in CWJC No.12375 of 2025 continued in service during the pendency of the aforesaid



Original Application and, upon completion of his regular tenure of 20 years on 30.09.2025, was discharged from the Indian Armed Forces. Consequently, the aforesaid Original Application became infructuous and was disposed of accordingly. Immediately thereafter, the petitioner submitted a representation before the Home Department, Police Branch, Government of Bihar, seeking permission to join the post of Deputy Superintendent of Police and enclosed his discharge order. However, his request was rejected vide Letter No. 3011 dated 27.02.2026. Aggrieved by the said order, he has approached this Court by filing the present writ petition.

29.1 So far as the petitioner in CWJC No.12375 of 2025 is concerned, he had duly intimated the respondent authorities regarding the pendency of the proceedings before the Hon'ble High Court of Delhi and sought extension of time for joining. Such extension was granted by the State authorities from time to time. Subsequently, on 16.10.2024, the Hon'ble High Court of Delhi directed the Indian Air Force to consider the request of the petitioner. Pursuant thereto, the petitioner was discharged from service with effect from 20.12.2024. Thereafter, the writ petition before the Hon'ble High Court of Delhi was disposed of on 23.12.2024, granting liberty to the



petitioner to approach the State of Bihar for appropriate action with regard to his appointment. Pursuant thereto, the petitioner submitted a representation dated 09.01.2025 before the Home Department seeking permission to join the post of Deputy Superintendent of Police. The said representation, however, was rejected vide Letter No. 2745 dated 05.03.2025. Aggrieved thereby, the petitioner has also approached this Court by filing the present writ petition.

30. Upon perusal of the counter affidavit filed on behalf of the State, it transpires that the stand of the respondents is that the time for joining sought by the petitioners was extended from time to time by the Home Department through different communications. However, subsequently, in view of paragraphs 15 and 16 of Resolution No. 2374 dated 16.07.2007 issued by the General Administration Department, Government of Bihar, since the petitioners did not join within the stipulated period despite extension of joining time, their representations seeking further permission to join were rejected and the vacancies were carried forward to the subsequent recruitment. It, therefore, transpires that paragraphs 15 and 16 of Resolution No. 2374 dated 16.07.2007 (Annexure -B to the counter affidavit filed on behalf of the State) issued by the General



Administration Department, Government of Bihar are relevant for the adjudication of the present writ petitions. The relevant extracts of the said Resolution are reproduced hereinbelow:

“15 उपर्युक्त कार्रवाइयों के बाद भर्ती हेतु अपेक्षित कर्वाइ नियुक्ति प्राधिकार द्वारा की जायेगी। भर्ती के क्रम में कार्मिक एवं प्रशासनिक सुधार विभाग के संकल्प संख्या 2082 दिनांक 01/04/2003 में निहित अनुदेशों का अनुपालन नियुक्ति प्राधिकार द्वारा सुनिश्चित किया जायेगा। योगदान करने के लिए अधिकतम एक माह का समय दिया जायेगा।

16 किसी उम्मीदवार या उम्मीदवारों द्वारा निर्धारित समय-सीमा के अन्दर योगदान नहीं देने या अन्य कारणों से रिक्तियाँ भरी नहीं जा सकने की स्थिति में रिक्तियाँ अगली अधियाचना के लिए अग्रणीत की जायेंगी।

31. The petitioners have relied upon various judgments which are relevant for adjudication of the controversy involved in the present cases.

31.1 In the case of *Narender Singh (supra)*, the relevant observations contained in paragraphs 7.1, 7.2, 7.3 and 8 are reproduced hereinbelow:

“7.1. From the chronological



dates and events reproduced hereinabove by no stretch of imagination, it can be said that there was any delay and/or lapse or fault on the part of the appellant. The advertisement for 1647 posts was issued by the Haryana Public Service Commission on 16-2-2016. The last date to submit the form online was 15-3-2016. As per the advertisement, the appellant was required to submit the NOC from his employer, which in the present case is District Elementary Education Officer, at the time of interview. The appellant applied for issuance of NOC on 22-3-2016 well in advance. The said application was received vide Receipt No. 4223 dated 4-4-2016 in the office of District Elementary Education Officer, Jhajjar. The appellant appeared for the written examination for the post in question on 5-3-2017. The result of the written examination was declared on 6-11-2017 and the appellant also cleared the written examination. As observed hereinabove, the appellant was to produce an NOC at the time of interview. Therefore, in anticipation that non-receipt of the NOC may come in his way in getting the appointment therefore, the appellant filed the writ petition before the High Court being CWP No. 27864 of 2017 on 5-12-2017 for issuance of the



direction to the employer to release the NOC. The learned Single Judge passed the interim order in favour of the appellant in the aforesaid CWP No. 27864 of 2017 vide order dated 7-12-2017 [Narender Singh v. State of Haryana, 2017 SCC OnLine P&H 5456] directing that if he falls within the zone of consideration for being called for an interview for the post in question, shall be provisionally interviewed, regardless of the fact that an NOC has not been issued so far by the Department of Elementary Education.

7.2 It is not in dispute that pursuant to the interim order dated 7-12-2017 [Narender Singh v. State of Haryana, 2017 SCC OnLine P&H 5456] , the appellant was interviewed provisionally. However, his result was kept in a sealed cover. Thus, during pendency of the aforesaid writ petition and despite the fact that pursuant to the interim order dated 7-12-2017 [Narender Singh v. State of Haryana, 2017 SCC OnLine P&H 5456] , the appellant was provisionally interviewed, the Public Service Commission declared the result of final selection in respect of the interviews conducted from 12-12-2017 to 14-12-2017 on 15-12-2017 and the actual appointments were made on 12-7-2018.



In the meantime, the appellant received the NOC on 6-6-2018 from his employer — District Elementary Education Officer and immediately on receipt of the same, the same was produced by him before the Public Service Commission on 8-6-2018 i.e. even before the actual appointments were made by the Public Service Commission, which were made on 12-7-2018. Thus, from the aforesaid, it can be seen that there was no delay and/or any fault on the part of the appellant. Whatever was the lapse and/or the delay was, it was on the part of the employer of the appellant, who did not issue the NOC though applied on 22-3-2016 and which was issued only on 6-6-2018 and that too after the intervention of the High Court. Even the learned Single Judge also noted that there was a delay and/or lapse on the part of the District Elementary Education Officer, and therefore, even the learned Single Judge also imposed the costs of Rs 50,000 on the employer of the appellant.

7.3 Once it is found that there was no lapse and/or delay on the part of the appellant and/or there was no fault of the appellant in not producing the NOC at the relevant time and when it was produced immediately on receipt of the same and that too before the



appointments were made and when it is found that the last candidate, who is appointed i.e. Respondent 4 herein is having less marks than the appellant and thus the appellant is a more meritorious candidate than the last candidate appointed i.e. Respondent 4, to deny him the appointment is not justifiable at all. He cannot be punished for no fault of him. Both, the learned Single Judge [Narender Singh v. State of Haryana, 2019 SCC OnLine P&H 3621] as well as the Division Bench [Narender Singh v. State of Haryana, 2021 SCC OnLine P&H 3059] of the High Court have committed grave error in not exercising the jurisdiction vested in it and in not directing the respondents to appoint the appellant though he is found to be more meritorious candidate than the last candidate appointed i.e. Respondent 4.

8. In view of the above and for the reasons stated above, the present appeal is allowed. The impugned judgment and order passed by the Division Bench of the High Court dated 28-9-2021 passed in Narender Singh v. State of Haryana [Narender Singh v. State of Haryana, 2021 SCC OnLine P&H 3059] as well as the judgment and order passed by the learned



Single Judge dated 6-11-2019 passed in Narender Singh v. State of Haryana [Narender Singh v. State of Haryana, 2019 SCC OnLine P&H 3621] except the costs imposed by the learned Single Judge are hereby quashed and set aside. However, the costs imposed by the learned Single Judge are hereby maintained. The State Government and the Haryana Public Service Commission are hereby directed to issue appointment order to the appellant on the post of Assistant Professor (History) for which he is found to be eligible and meritorious. The said exercise be completed within a period of two weeks from today. However, it is observed that on the principle of “no work no pay”, the appellant shall not be entitled to any back wages but shall be entitled to continuity in service for the purpose of seniority, pay fixation, etc. It is further observed and directed that as observed hereinabove while appointing the appellant pursuant to the present order, Respondent 4 be not disturbed and he be continued in service and he be accommodated on any other post of Assistant Professor (History), which is reported to be vacant.”

31.2 Further, in the case of *Kumari Laxmi Saroj (supra)*, the relevant observations contained in paragraph 4.2



and paragraph 6 are reproduced hereinbelow:

“4.2 From the aforesaid, it can be seen that as such, there was no fault on the part of the appellants in not producing the U.P. Council registration either at the time of submitting the applications forms or even at the time of verification of the documents. As such, all the appellants except one had applied for U.P. Council registration before the date of advertisement i.e., 15.12.2021. Therefore, for no fault(s) of theirs, the appellants could not have been made to suffer. The issue involved is directly covered by the decision of this Court in the case of [Narender Singh Vs. State of Haryana and Ors.](#); (2022) 3 SCC 286. In the said decision, it is observed and held by this Court that once it was found that there was no lapse/delay on the part of the applicant and/or there was no fault of the appellant/applicant in not producing the NOC at the relevant time, he cannot be punished for the same. When the aforesaid decision was pressed into service before the High Court on behalf of the appellants, the High Court has not followed the same by observing that the directions issued by this Court in the case [Narender Singh](#) (supra), were in exercise of powers under [Article 142](#) of the Constitution of India. The aforesaid is a misreading and/or misinterpreting of the judgment of this Court. This Court has specifically laid down the law that if it is found that there is no lapse/delay on the part



of the applicant, he cannot be punished for no fault attributable to him. However, as in that case, another candidate/employee was already appointed, this Court had protected his service also while exercising the powers under Article 142 of the Constitution of India. Therefore, exercise of the powers under Article 142 of the Constitution of India was for protecting the service of another employee – respondent No. 4 in that case. The High Court has as such, misread the judgment of this Court.

6. The respondent(s) are directed to appoint the appellants herein to the post of Health Worker (Female) within a period of six weeks from today, if otherwise, they are found meritorious and fulfilling the other eligibility criteria. However, it is made clear that the appellants shall be entitled to all the benefits from the date of their actual appointments. Present appeal is accordingly allowed. In the facts and circumstances of the case, there shall be no order as to costs.”

31.3 Likewise, in the judgment of ***East Coast Railway and Another (supra)***, the relevant observations contained in paragraphs 20, 21 and 24 are reproduced hereinbelow:

“20. Arbitrariness in the making of an order by an authority can manifest itself in different forms. Non-application of mind by the authority making



the order is only one of them. Every order passed by a public authority must disclose due and proper application of mind by the person making the order. This may be evident from the order itself or the record contemporaneously maintained. Application of mind is best demonstrated by disclosure of mind by the authority making the order. And disclosure is best done by recording the reasons that led the authority to pass the order in question. Absence of reasons either in the order passed by the authority or in the record contemporaneously maintained is clearly suggestive of the order being arbitrary hence legally unsustainable.

21. In the instant case the order passed by the competent authority does not state any reasons whatsoever for the cancellation of the typing test. It is nobody's case that any such reasons were set out even in any contemporaneous record or file. In the absence of reasons in support of the order it is difficult to assume that the authority had properly applied its mind before passing the order cancelling the test.

24. We may hasten to add that while application of mind to the material available to the competent authority is an essential prerequisite for the making of a valid order, that requirement should not be confused with the sufficiency of such material to support any such order.



Whether or not the material placed before the competent authority was in the instant case sufficient to justify the decision taken by it, is not in issue before us. That aspect may have assumed importance only if the competent authority was shown to have applied its mind to whatever material was available to it before cancelling the examination. Since application of mind as a threshold requirement for a valid order is conspicuous by its absence, the question whether the decision was reasonable having regard to the material before the authority is rendered academic. Sufficiency or otherwise of the material and so also its admissibility to support a decision the validity whereof is being judicially reviewed may even otherwise depend upon the facts and circumstances of each case. No hard-and-fast rule can be formulated in that regard nor do we propose to do so in this case. So also whether the competent authority ought to have conducted an enquiry into or verification of the allegations before passing an order of cancellation is a matter that would depend upon the facts and circumstances of each case. It may often depend upon the nature, source and credibility of the material placed before the authority. It may also depend upon whether any such exercise is feasible having regard to the nature of the controversy, the constraints of time, effort and expense. But what is absolutely



essential is that the authority making the order is alive to the material on the basis of which it purports to take a decision. It cannot act mechanically or under an impulse, for a writ court judicially reviewing any such order cannot countenance the exercise of power vested in a public authority except after due and proper application of mind. Any other view would amount to condoning a fraud upon such power which the authority exercising the same holds in trust only to be exercised for a legitimate purpose and along settled principles of administrative law.”

31.4 Upon consideration of the judgments relied upon by the petitioners, this Court finds that the principles laid down therein are relevant to the controversy involved in the present cases.

32. This Court finds that, on the one hand, the respondent-State has admitted that extensions of time for joining were granted to the petitioners from time to time. The same is also evident from the various letters annexed with the counter affidavit filed on behalf of the State, including the communications issued by the Home Department, Government of Bihar, dated 12.10.2020, 9.11.2020, 15.02.2021, 27.07.2021 and 31.12.2021.

33. It is significant to note that all the aforesaid



communications were issued at a time when Resolution No. 2374 dated 16.07.2007 was already in existence and operative. Therefore, the very provision upon which the respondents are presently relying to deny the petitioners permission to join was already in force when the State itself, on several occasions, extended the time granted to the petitioners for joining.

34. The Court further takes note of the fact that the petitioners were continuously pursuing their respective remedies before the competent judicial forums for obtaining their discharge/NOC from the Indian Air Force. The petitioner in CWJC No.4936 of 2026 pursued his remedy before the Armed Forces Tribunal, Principal Bench, New Delhi, whereas the petitioner in CWJC No.12375 of 2025 pursued his remedy before the Hon'ble High Court of Delhi. Ultimately, both the petitioners were discharged from service and became legally capable of complying with the requirement of submitting the discharge certificate/relieving order.

35. Another significant aspect of the matter is that, while the respondents had earlier extended the period for joining on several occasions, the impugned orders do not disclose any cogent reason as to why further extension was subsequently refused. No material has been brought on record to demonstrate



that the petitioners were informed that no further extension could be granted or that their request would be rejected notwithstanding the circumstances in which they were unable to join.

36. In *East Coast Railway and Another (supra)*, it has been held, inter alia, that arbitrariness in the making of an order by an authority may manifest itself in different forms. Non-application of mind by the authority making the order is one such form. Every order passed by a public authority must disclose due and proper application of mind by the authority concerned. Such application of mind is best demonstrated by disclosure of the reasons which led the authority to pass the order. Absence of reasons either in the order passed by the authority or in the contemporaneous record is suggestive of arbitrariness and may render the order legally unsustainable.

36.1 In the present case, this Court finds that the competent authority has not assigned any cogent reason as to why, despite having granted extensions to the petitioners on several earlier occasions, their requests were rejected after they had ultimately obtained discharge certificates from their employer pursuant to prolonged litigation.

36.2 The Court also finds that the circumstances



resulting in the delay in joining were not attributable to the petitioners. They had obtained permission from their employer to participate in the selection process and had duly appeared in the Preliminary Examination, Mains Examination and Interview. After their selection, they were required to furnish the relieving order/NOC/discharge certificate from their employer. The petitioners made efforts to obtain the requisite documents from the Indian Air Force and pursued their remedies before the competent judicial forums when the same were not issued. During this entire period, the petitioners kept the respondent authorities informed about the pendency of the proceedings and the circumstances preventing them from joining. The State authorities, being aware of the aforesaid circumstances, extended the time for joining on several occasions. In such circumstances, the subsequent rejection of the petitioners' requests merely on the ground that the period prescribed under paragraphs 15 and 16 of Resolution No. 2374 dated 16.07.2007 had expired, without considering the peculiar facts and circumstances of the cases, cannot be sustained.

37. The principle laid down by the Hon'ble Supreme Court in *Narender Singh (supra)* is also relevant. The Hon'ble Supreme Court has observed that where there is no lapse or



delay attributable to the candidate and there is no fault on the part of the candidate in producing the requisite NOC at the relevant time, and the requisite document is produced immediately upon its receipt, the candidate should not ordinarily be made to suffer for circumstances beyond his control, particularly where the candidate has otherwise fulfilled the requirements of the selection process.

37.1 Applying the aforesaid principle to the facts of the present cases, this Court finds that there was no deliberate delay or lapse on the part of either of the petitioners. Both petitioners had participated in the selection process after obtaining due permission from their employer. They successfully completed the selection process and were provisionally selected for appointment to the post of Deputy Superintendent of Police.

37.2 The only impediment in their joining was the requirement to submit the relieving order/NOC/discharge certificate from the Indian Air Force. The petitioners took all reasonable steps for obtaining the requisite documents and, when the same were not issued, pursued their remedies before the competent judicial forums. The delay caused thereby was, therefore, beyond their control.



37.3 It is also relevant that the respondent-State was aware of the circumstances and, despite the existence of Resolution No. 2374 dated 16.07.2007, granted extensions of time to the petitioners on several occasions. Having done so, the State was required to consider the subsequent representations of the petitioners in the light of the peculiar facts and circumstances of their cases and to assign cogent reasons if any further extension was to be denied.

38. Similarly, the principle laid down in *Kumari Laxmi Saroj (supra)* is applicable to the facts of the present cases. In that case, the Hon'ble Supreme Court considered the situation where the candidates had taken the necessary steps for obtaining the requisite registration/certificate, but the concerned authority took time to issue the same. The candidates could not, therefore, produce the requisite document within the prescribed period. The Hon'ble Supreme Court granted relief after finding that the candidates were not at fault and that they ought not to suffer on account of the delay attributable to the concerned authority.

39. The facts of the present cases stand on a similar footing. The petitioners cannot be said to have deliberately failed to join the post. Rather, their inability to join within the



stipulated period arose from their inability to obtain the requisite discharge/NOC from the Indian Air Force, despite having taken steps for obtaining the same and having pursued appropriate legal remedies.

40. In view of the aforesaid facts and circumstances, this Court is of the considered view that the delay in joining was beyond the control of the petitioners and that there was no deliberate lapse or negligence on their part. Consequently, the petitioners cannot be made to suffer for the period during which they were pursuing the requisite legal remedies for obtaining their discharge certificates.

41. Accordingly, paragraphs 15 and 16 of Resolution No. 2374 dated 16.07.2007 (Annexure -B to the counter affidavit filed on behalf of State) shall not operate as a bar against the petitioner in both the writ petitions in the peculiar facts and circumstances of the present cases.

42. This Court, therefore, holds that the impugned orders rejecting the requests of the petitioners for permission to join the post of Deputy Superintendent of Police cannot be sustained and are liable to be set aside.

43. Accordingly, the impugned orders contained in Letter No. 3011 dated 27.02.2026 (Annexure P/1 to the writ



petition) and Letter No. 6267 dated 27.06.2022 (Annexure -P/2 to the writ petition) issued under the signature of Under Secretary to the Government, Home Department (Police Branch) Government of Bihar in CWJC No. 4936 of 2026 and impugned order contained in Letter No. 2745 dated 05.03.2025 (Annexure P/1 to the writ petition) and Letter No. 10137 dated 10.10.2022 issue under the signature of Deputy Secretary to the Government, Home Department (Police Branch), Government of Bihar in CWJC No. 12375 of 2025, whereby the requests of the respective petitioners for joining the post of Deputy Superintendent of Police were rejected, are hereby set aside.

44. The respondents are directed to accept the joining of both the petitioners on the post of Deputy Superintendent of Police within a period of 30 days from the date of receipt/production of a copy of this order, subject to verification of all requisite documents and fulfillment of other formal requirements, if any.

45. It is made clear that the petitioners shall be treated as having joined the post pursuant to the present order from the date on which they actually submit their joining in compliance with the direction issued herein. Since the petitioners could not join earlier for reasons beyond their control and their joining



was prevented by circumstances arising from the non-issuance of the requisite discharge/NOC by their employer, they shall be entitled to salary and other admissible benefits from the date of their actual joining pursuant to this order, in accordance with the applicable rules.

46. It is further made clear that Memo No. 1118 dated 09.11.2022 and Memo No. 6267 dated 27.06.2022 issued under the signature of Deputy Secretary to the Government, Home Department (Police Branch) shall not operate as against the petitioners of both the writ petition mentioned above in the peculiar facts and circumstances of the present cases.

47. The writ petitions are accordingly allowed. There shall be no order as to costs.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	AFR
CAV DATE	2/7/2026
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