

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1240 of 2015

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Sanjeet Kumar Yadav S/o Ram Lal Yadav Resident of Village Budhnabir,
P.O. Bharsara, P.S. Bihiya, District Bhojpur (Bihar).

.... Petitioner/s

Versus

1. The Union of India.
2. The Director General of Police, C.R.P.F., New Delhi.
3. The Inspector General of Police, C.R.P.F., Bihar, Patna.
4. The Deputy Inspector General of Police, Patna.
5. The State Selection Commission (CR) Allahabad through its Chairman.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.22487 of 2014

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Kamlesh Kumar Paswan Son of Ram Bihari Paswan Resident of Village
AND P.O.- Kaup, P.S.- Charpokhary, District- Bhojpur (Bihar).

.... Petitioner/s

Versus

1. The Union of India
2. The Director General of Police, C.R.P.F., New Delhi.
3. The Inspector General of Police, C.R.P.F., Bihar, Patna.
4. The Deputy Inspector General of Police, Patna.
5. The Staff Selection Commission (CR) Allahabad through its Chairman.

.... Respondent/s

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Appearance :

(In CWJC No.1240 of 2015)

For the Petitioner/s : Mr. Manoj Kumar, Adv

For the Respondent/s : Mr. Anjani Kumar Sharan C.G.C

(In CWJC No.22487 of 2014)

For the Petitioner/s : Mr. Manoj Kumar, Adv

For the Respondent/s : Mr. Sanjay Kumar(ASG)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

4 08-05-2015 Heard learned counsel for the parties.

2. The petitioners in these two writ applications
have sought the following relief:-

“direction to the respondents to appoint the

petitioner according to recommendation of the Recruitment of Constable (G.D) in C.R.P.F., & Rifleman (G.D.) in Assam Rifles, 2013.”

3. Learned counsel for the petitioners in support of the aforementioned prayer has submitted that once the petitioners had filed application before the Staff Selection Commission, Allahabad for the post of Constable (G.D) on Central Reserve Police Force (CRPF) and Rifle-man (G.D.) in Assam Rifles and were subjected to selection process by way of issuance of Admit-card for appearing in the examination, they could not have been left out in the process of appointment when they had secured higher marks than those who were selected and recommended.

4. Having regard to the aforementioned submission, this court on 26.03.2015 had passed the following order:-

“Having perused the counter affidavit in C.W.J.C. No. 1240 of 2015, this Court would feel necessity of not only to peruse the complete copy of the Rojgar Samachar, whose truncated portion has been produced by way of Annexure-A & F. Additionally, some senior official of Staff Selection Commission, Allahabad (hereinafter referred to as 'the Commission') shall also explain as to how on the admit card of the petitioner Naxal Code No. 39 was printed when there was no such naxal code, as per the advertisement contained

in Annexure-A wherein number of naxal code has started from 61 onwards.

Finally, the Commission will explain as to how the evaluation of the petitioner on the basis of naxal code has adversely affected him and whether any person having lesser marks than the petitioner (70) has been recommended and appointed and if so, up to what marks and names of such candidates who have been recommended and appointed having also obtained seventy marks or even less.

This Court would, accordingly, direct the Regional Director of the Commission, Allahabad to depute some senior officers who can explain before this Court the manner in which the recommendation was made in which the petitioner, despite having higher marks, was eliminated only on account of alleged wrong mentioning of naxal code by him in the application.

Put up this case on 8th May 2015 along with C.W.J.C. No. 22487/2014 at the top of the list under the same heading when such authorized officers of the Commission shall personally remain present with the records.

In the meantime it shall be open for the Respondents to file their separate counter affidavit in C.W.J.C. No. 22487 of 2014 and explain whether the same also involves the question being examined in C.W.J.C. No. 1240 of 2015.”

5. Pursuant to the aforesaid order Mr. V.N.

Shukla Deputy Director, has appeared today on behalf of Staff Selection Commission, Allahabad and by filing a counter affidavit, has firstly sought to explain that the advertisement which was enclosed by the petitioners in the writ application in form of Annexure-1, is not a correct copy and therefore whatever impressions were either covered by the petitioners or were given by him in their application on the basis of Annexure-1, would not

bind Staff Selection Commission.



6. In this regard, he has referred to Annexure-A, the Advertisement which was published in the Employment News (Rozgar Samachar) from whose perusal it becomes very clear that Annexure-1 is not and in fact cannot be the authentic copy of the advertisement. The Advertisement in fact runs into as many as 20 pages (10 Full Scape Pages) whereas one which has been produced by the petitioners seems to be a truncated copy concised in four pages. As a matter of fact, this Court would find that either the petitioner deliberately or on account of its non availability has not cared to produce the complete copy of Advertisement and had produced only truncated copy of the Advertisement which is Annexure-1 contains only its enclosures by way of Annexure-10, 11, 13 and 14 whereas the original Advertisement produced by the respondents not only contains all the Annexures but also the prescribed format of the application form, which is

surprisingly missing in the copy of advertisement filed by the petitioner.

7. Such major discrepancy in the copy of advertisement produced by way of Annexure-1 to the writ petition by the petitioners would also go against the petitioners themselves because if on the basis of Annexure-1, the advertisement produced by the petitioners they had filled the naxal code of the State that itself was a blunder committed by them because all these applications were not only required to be filled by the candidates either online or by hand but had to be in the prescribed format in which column no. 1.1 was State code, column no. 2 was the category code and column no. 15 was the naxal code. The petitioners had rightly filled up the State code being 05. They had also filled up their category code-6 which stood for OBC but then when they had filled up in column no. 15 the figure 39 as a naxal code that was contrary to the terms and conditions of the advertisement. In the original



advertisement contained in Annexure-A, 39 has been given for border district and therefore, it was held by the Commission that petitioners had committed a fatal error by filling up 39 in place of 52, on the basis of their copy of advertisement i.e. Annexure-1 to the writ petition which they may have obtained from anywhere else.

8. Annexure-1 to the writ petition itself would go to show that it was not authorized text of the advertisement and therefore, on the basis of that advertisement when the petitioners had filled up the wrong naxal code, they had to be governed by the terms and conditions of the advertisement laying down that if a candidate claiming reservation in any form does not give the correct picture, he will be treated as a general category. It is here that the case of the petitioners get distinguished because they wanted benefit of the reservation of the naxal/militancy affected district of the State of Bihar but having not filled up correctly as serial no.-52 in the column no. 15, had made themselves liable

for being treated as candidates of general category and the Commission accordingly had also on the basis of their own declaration put them in General category.

9. The over excited submission of learned counsel for the petitioner before this Court and probably playing more to the gallery to his pay masters that it was not the mistake on the part of the petitioners to have mentioned a wrong code and in fact if the petitioners have mentioned the wrong code, the commission should not have allowed the petitioners to appear in the examination, is only reflective of the deliberate ignorance by the petitioners. As noted above the Commission was bound to consider a candidate on the basis of their declaration. The terms and conditions of the advertisement were very clear that if the person claims reservation but if for any reason, he is not found entitled for such reservation would still be considered but only as candidate of general category and therefore, issuance of Admit-card with mention of code no. 39,



which was actually filled up by the petitioners, in no way would entitle them to claim the benefit of reservation as per the provision made in the advertisement.

10. The further submission of learned counsel for the petitioners placing reliance on Annexure-5 and 5/1 containing the result of the review medical examination will also have no bearing on the decision taken by the Commission. It has to be kept in mind that medical test was only part of the selection process and ultimately the person who may have been found medically fit has to be appointed on the basis of their performance in other test. The petitioners case also was that they should have been treated to be the candidates of reserved category of the militancy affected area but the requirement given in the advertisement having not correctly incorporated by them in their application submitted before the Commission they were correctly held to be disentitled for claiming reservation on the ground of their belonging to militancy

affected area.

11. That being so, this Court does find any error in the decision taken by the respondents in refusing appointment to the petitioners because they did not qualify for the post under the selection made by the Commission in the general category.

12. Thus both these writ applications are wholly misconceived and are, accordingly, dismissed.

(Mihir Kumar Jha, J)

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