

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1066 of 2015

=====

Lavkush Kumar son of Shri Anil Sharma, resident of village- Lalachak,
P.O.-Tej Bigha, P.S.-Kako, District- Jehanabad.

.... Petitioner/s

Versus

1. The Union of India through the Chairman, Staff Selection Commission, Govt.of India, Block no.12,Central Office Campus,Lodhi Road,New Delhi
2. The Chairman ,Staff Selection Commission,Govt. of India, Block no.12, Central Office Campus,Lodhi Road,New Delhi.
3. The Director,Staff Selection Commission (Central Region), Govt. of India, 8-A.B. Bailey Road, Allahabad(U.P.)
4. The Deputy Director, Staff Selection Commission (Middle Region), Govt. of India, 8- A.B. Bailey Road, Allahabad(U.P.)

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Nityanand Mishra, Adv

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

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

4 03-04-2015 Heard learned counsel for the parties as with

regard to the following relief prayed in this writ

application:-

"(a) For issuance of writ in the nature of mandamus directing/commanding the respondents concerned issue offer of appointment letter to the petitioner and appoint him on suitable respective post according to merit of three level tests i.e. physical test, written test and medical test in which the petitioner finally found fit and also eligible for appointment as male constable (G.D.) in CRPF, BSF, CISF, SSB, ITBPF and Assam Rifles as



per cut of marks, because the petitioner has got more than the cut off marks which is itself explanatory from perusal of relevant part of Marks Chart as contained in Annexure-6 to this writ application.

(b) For further directing/commanding the respondent concerned to consider sympathetically and according to merit the candidature of the petitioner for which the petitioner is entitled to in accordance with law because the matter relates to the life and career of the petitioner. If the candidature of the petitioner may not be considered, then the petitioner will suffer a lot and deprive from his Future Career."

After some arguments, learned counsel for the petitioner keeping in view the specific stand taken by the respondent in paragraph nos. 20 and 22 of the counter affidavit reading as follows:-

"20. That it is pertinent to mention that selection is made against the availability of vacancy and there may be cases where large number of candidates gets same marks (cut off mark) but the availability of vacancy may not be



sufficient to accommodate all such candidates. Therefore, a provision was made in the notice of the Examination for resolving the tie cases. The method of resolving the 'Tie Case' was prescribed in para 11 of Notice of the Examination under heading "RESOLUTION OF THE CASES" and in para 8 of write up of final result declared on 12.10.2012. The details of resolving the 'Tie Case' as given below:-

(a) The tie is resolved by the Commission by referring to the total marks in the written examination i.e. a candidate having more marks in the written examination gets preference over the candidates with less marks.

(b) If the tie still persists then the marks in Part A are referred to i.e. a candidate having more marks in Part A is given preference.

(c) If the tie still persists, the candidates

older in age gets preference.

(d) If the tie still persists, it is finally resolved by referring to the alphabetical order of names i.e. candidate whose name begins with the alphabet which comes first in the alphabetical order gets preference.

21.

22. That it is stated that it is pertinent to mention here that as marks of candidates find place in select list along with other candidates who failed to find place in final result due to low merit in their respective category and domicile state has already been uploaded on the website of Commission's Headquarters. The onus is on the petitioner to prove that any of the candidates, if appeared in the examination, got place in final merit for the preference 'C' and 'E' in contrary to the criteria fixed for resolving the 'Tie Case' mentioned in



Notice of the Examination and write up of final result. As the result is prepared by using sophisticated software specially prepared for the purpose, the application of criteria for resolving the tie-cases is error free. After analyzing the data of result and marks obtained by the candidate, it has been found that the last selected candidate of unreserved category of domiciliary status of naxal area of Bihar had 20 marks in Part A with aggregate mark 62 for CAPF preference 'C' (CRPF) and 22 marks in Part A with aggregate mark 62 for CAPF preference 'E' (ITBP). The marks obtained by the petitioner in Part A were 19. Therefore, the petitioner was not get selected finally for post preference 'C' and 'E' in terms of application of criteria (b) for resolving the tie case, though his marks was equal to the

marks of last selected candidate for preference 'C' and 'E' of naxal affected area of Bihar under his category (unreserved)."

seeks permission to withdraw this writ application in order to enable the petitioner to file his representation for establishing that anyone having lesser marks than him was subsequently appointed and thereby the petitioner was discriminated on the basis of 62 marks obtained by him in the selection test conducted by the respondents for appointment on the post of Constable.

That being so, this application is, accordingly, permitted to be withdrawn with the aforementioned liberty.

(Mihir Kumar Jha, J)

Ranjan/-

U			
---	--	--	--