

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11857 of 2008

=====

Sudhir Paswan, Son of Shri Kapil Pashwan, resident of village and Post –
Makhdumpur Bhayamau P.S. Alipur, District Gaya.

.... Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Gaya.
3. The Collector, Gaya.
4. The Superintendent of Police, District Gaya.
5. The Dy. Superintendent of Police, Gaya.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Vikas Kumar

For the Respondent/s : AC to GP - 4

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4. 31-08-2015 Heard Sri Vikas Kumar, learned counsel for the
petitioner and learned A.C. to Govt. Pleader – 4.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for directing the respondents to appoint him on the post of Home Guard in Tekari Division in the district of Gaya.

It has been pleaded that the petitioner qualified in the selection test of Home Guard, however; the selection list was pasted on the notice board, which was truncated. Subsequently, notice with second list was published, in which, it was indicated that since the candidate, having roll no. 158, had not joined, in his place, second candidate from the same category was accommodated. Immediately thereafter, he approached the

Collector, Gaya and filed representation, vide **Annexure – 1** to the writ petition, for appointing him, in view of first list. Since the request made by the petitioner before the Collector was not considered, the petitioner approached this Court by filing the present writ petition.

Learned counsel for the petitioner submits that in a well-planned manner, a truncated list was pasted on the first occasion, in which, the petitioner's name was appearing, vide roll no. 158, as selected candidate. He further submits that very short time was given for joining and immediately after expiry of said period, second list was published and in place of petitioner, some other person having lesser marks than the petitioner, was accommodated and as such, a prayer has been made for directing the respondents to appoint the petitioner on the post, as Home Guard.

In this case, a counter affidavit has been filed on behalf of respondent no. 3. It has been categorically stated that it was not a case of appointment of Home Guard, but it was for the purpose of enrollment of the Home Guard. It was not a permanent appointment, rather as per the Home Guard Act, 1947, selection for enrollment as Home Guard was made for four years only and after lapse of four years or interval of four years, the Home Guard

so enrolled is to be re-examined or re-tested on the basis of performance of duty. Only if he is found fit, he is again enrolled, as Home Guard.

Learned counsel for the State submits that in view of representation of petitioner itself, it is evident that the petitioner had accepted that after the publication of the result, the petitioner was sick and he was under-treatment from 12-06-2008 to 20-06-2008. He submits that in view of the admission of petitioner itself, it is evident that he was not in a position to join, as enrolled Home Guard.

Be that as it may, keeping in view the fact that selection for enrollment was only for four years, at this juncture, it would not be appropriate to pass any positive order in favour of the petitioner.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

Anay

U			
---	--	--	--