

IN THE HIGH COURT OF JUDICATURE AT PATNA

C.W.J.C. No. 14946 of 2007

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1. Dhan Kumar Tamang, son of late Bhupal Singh Tamang
2. Dilip Tamang, son of Bhaira Bahadur Tamang
3. Tek Bahadur Rai, son of Padam Bahadur Rai
4. Ravi Kumar Lama, son of Tika Prasad Lama.
All are posted at B.M.P.-1 Camp, P.O.- B.V. College, P.S.- Airport, District- Patna.
.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Home (Special) Department, Government of Bihar, Patna.
3. The Director General-cum-Inspector General of Police, Bihar, Patna.
4. The Additional Director General, Armed Forces Bihar, Patna.
5. The Deputy Inspector General of Police, Armed Forces, Central Zone, Patna.
6. Commandant, Bihar Military Police-1, Patna.
.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Chandra Giri
Mr. Pravin Kumar Sinha
For the Respondent/s : Mr. (GA4)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 28-04-2015

Heard Mr. B.P. Pandey, learned Senior Counsel for the
petitioners and Counsel for the State.

It has been stated that the writ application on behalf of
petitioner nos. 1 to 3 has become infructuous as during the pendency
of the writ application, they have been granted promotion. The writ
application now survives only in respect of petitioner no. 4 (Ravi
Kumar Lama).

Before bifurcation of the State, Bihar Military Police-19
Battalion was created at Ranchi and the petitioner was
engaged/appointed by B.M.P.-19. After bifurcation of the then



existing State of Bihar, the petitioner was shifted to Bihar Military Police and placed in Battalion No. 1 at Patna. For inclusion of his name in the literate Cadre (Sakshar Sanwarg), an option was invited from the eligible constables who had passed the matriculation examination. It is the case of the petitioner which has not been disputed by the respondents that an option was given by him for his inclusion in the said cadre. After bifurcation of the State, Bihar Military Police was reorganized and the service of the petitioner came under B.M.P.-1. It is the case of the petitioner that he is entitled to be considered for promotion as Literate Constable but the same has been denied by the respondents. From the statements made by the respondents in the counter affidavit, it appears that only dispute is with regard to non-furnishment of the matriculation certificate either at the time of giving option or subsequent thereto. Counsel for the petitioner has drawn attention of the Court to diverse documents in order to demonstrate that after furnishing the option along with the matriculation certificate, relevant entry was made in the service book also.

The respondents, on the other hand, as appear from the counter affidavit, insisted on production of matriculation certificate in original. There is no dispute that photo copy of the certificate was produced by the petitioner along with diverse representations filed by



him for the said relief. It further appears that the certificate was produced by the petitioner while he was posted in B.M.P.-19 at Ranchi. Mr. Pandey, learned counsel has pointed out that the respondents should verify the service records pertaining to the petitioner which might contain the original matriculation certificate of the petitioner as it is expected that after bifurcation of the cadre/State all documents relating to the service of the petitioner has been transferred to the State of Bihar where the petitioner is serving after bifurcation and allotment. If there be any dispute then the respondent Additional Director General, Bihar Military Police (respondent no. 4) should communicate with the corresponding authority of the State of Jharkhand as it appears that only such communication having been made, the documents, if available, in the said establishment of the B.M.P. at Ranchi will be furnished.

On bare perusal of the diverse documents appearing from records, it appears that photo copy of the matriculation certificate has been furnished/produced and the service book of the petitioner might be with the respondents. One fact is apparent that for non-production of the matriculation certificate and thus inclusion of the petitioner in the cadre of Literate Constable, he has been denied his promotion since last several years. With a view to resolve the aforesaid dispute, this Court directs the respondent Additional

Director General (respondent no. 4) to make appropriate enquiry with regard to educational certificate of the petitioner in the official/service records available with him/them. If the same is not available on the record, he will immediately communicate with the Additional Director General, Armed Forces of the State of Jharkhand for making available the original of the matriculation certificate. No sooner the certificate is made available, the respondent should consider his case for promotion/inclusion in the cadre of Literate Constable and grant the promotion(s) due to him. This Court also grants the petitioner liberty to apply for the duplicate of the matriculation certificate from the concerned Examination Board, if possible, and thereafter produce the same before the respondent(s) which would facilitate the respondents for granting him his legal dues. This Court expects that the respondents will act expeditiously in the matter.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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