

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15283 of 2006

=====

Rakesh Kumar Singh, s/o Sri Vishnudeo Singh resident of village & P.O. Nagarpara, P.S. Bihpur, district Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. Director General cum Inspector General of Police, Bihar, Patna
3. Director General of Police Military Police Bihar Patna
4. I.G. of Police, Personnel, Bihar, Patna
5. D.I.G. of Police, Bihar Military Police, Central Zone, Muzaffarpur
6. Commandant, B.M.P.-9, Jamalpur

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad

For the Respondent/s : AC to AAG No. 9

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 02-02-2015

Heard learned counsel for the petitioner and learned AC to AAG No. 9.

The sole petitioner invoking writ jurisdiction of this court under Article 226 of the Constitution of India has prayed for quashing of an order dated 3/10/2006 issued by the Inspector General of Police (Karmik), Bihar (Annexure - 10) whereby petitioner's representation was rejected. It has been pleaded that petitioner was selected for the post of Constable and he was issued a letter for joining. The said letter contained in Memo No. 3530 dated 26/8/2000 was issued in favour of the petitioner asking him to appear on 20/9/2000 for verification of original certificates and joining. It was submitted by learned counsel for the petitioner that since the



petitioner had fallen ill on 19th September, 2000 he sent a registered letter to the Commandant with a request to extend the date of joining. However, since no heed was paid to the request of petitioner the petitioner was constrained to approach this court by filing a writ petition vide CWJC No. 5154 of 2004. Learned counsel for the petitioner submits that in the writ petition counter affidavit was filed by the State and a plea was taken that a registered letter addressed to the D.I.G. was received subsequently and thereafter, he was denied his joining. Learned counsel for the petitioner has placed reliance on last but one paragraph of the order of the writ court, which was passed on 2/1/2006 (Annexure -9). He further submits that of -course no positive direction was issued by the writ court but the writ petition was disposed of considering the fact that representation filed by the petitioner was still pending with the respondent no. 2 and this court directed for disposal of the said representation by a reasoned order. Learned counsel for the petitioner submits that of -course in compliance with the order of the writ court a reasoned order has been passed vide Annexure - 10 to the present petition but the said order is not in consonance with the direction of the writ court dated 2/1/2006 passed in CWJC No. 5154 of 2004. Accordingly, it has been prayed for setting aside Annexure - 10 and directing the respondents to allow the petitioner to join B.M.P. – 9 as Constable.



In this case State has filed a counter affidavit. Learned State Counsel by way of referring to Annexure - A to the counter affidavit submits that intimation letter i.e. letter dated 26/8/2000 whereby petitioner was asked to appear on 20/9/2000 with all original documents for joining makes it clear that in case of any difficulty in appearance on the date fixed the candidates were required to personally meet the concerned Commandant for extending the date for joining. Learned State Counsel has referred to Clause -3 to Annexure – A and submits that condition contemplated in letter dated 26/8/2000 was very much clear that in case of non-appearance on the date of joining it will be deemed that concerned candidate was not interested to join and his candidature shall stand cancelled. He submits that since on the date fixed as per Annexure – A the petitioner had not appeared, his candidature had automatically been cancelled. He reiterates that of- course at the time of hearing of writ petition i.e. CWJC No.5154 of 2004 argument of learned counsel for the petitioner was noticed regarding issuance of letter on 19/9/2000 for extending the date of joining but fact remains that said registered letter was never received in the office of Commandant. However, subsequently, a letter addressed to the D.I.G. was received in the office on 28th September, 2000 and same was subsequently received in the office of Commandant on 30/9/2000. It has been argued that

the reasoned order i.e. Annexure – 10 requires no interference.

Besides hearing learned counsel for the parties I have also perused the materials available on record. Fact remains that as per Annexure - A the date for appearance and joining was 20/9/2000. Meaning thereby, that due to non appearance of the petitioner on 20/9/2000 without extension of time by the Commandant, the candidature of petitioner had already come to an end in the year 2000 itself. However, to the reasons best known to the petitioner, the petitioner after about four years in the year 2004 filed a writ petition vide CWJC No. 5154 of 2004 which stood disposed of on 2.1.2006 with a direction to pass a speaking order on the representation of the petitioner. Of -course the writ court had noticed the substance in the argument of the petitioner's counsel regarding issuance of letter on 19/9/2000 but fact remains that this court had not recorded any positive finding on receipt of the said letter in the office of the Commandant. It would be appropriate to quote last two paragraphs of the order dated 2/1/2006 passed in CWJC No.5154 of 2004 as below:-

“.....Prima facie I find substance in the submission of the learned counsel for the petitioner that the information regarding his ailment was sent by the petitioner to the competent authority, namely B.M.P. – 9 within time on 19.9.2000, vide Annexure 2. Under such

circumstances, denial of appointment to the petitioner despite his selection, vide Annexure 1, cannot be held to be justified.

However, since the representation filed by the petitioner is still pending before the D.G.P. (respondent no. 2) this Court directs him for disposal of his said representation by a reasoned order and communication of the same to the petitioner within two weeks of the receipt / production of a copy of this order.”

On perusal of the aforesaid finding the court is satisfied that earlier writ court had not recorded any positive finding regarding receipt of request letter of petitioner in the office of Commandant, rather this court directed for passing a speaking order on the representation of the petitioner and thereafter, in compliance with the order of the writ court a reasoned order has been passed vide Annexure - 10 to the writ petition. I do not find any error in the order i.e. Annexure - 10. Accordingly, there is no reason to issue any writ in favour of the petitioner.

The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

U			
---	--	--	--