

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11588 of 2008

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Ram Bilash Yadav son of Badu Yadav resident of village Meharbanchak, P.O. Suhaipur (Buniyadganj), P.S. Muffasil, District Gaya

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The D.G. cum I.G. of Police, Bihar, Patna
3. The D.I.G. of Police Munger Range, Munger
4. The Chairman, Constable Selection Committee, Munger Range cum Commandant B.M.P. 14, Patna
5. The S.P., Sheikhpura.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Ram Hriday Prasad, Advocate

For the State : M/s D.K.Sinha, AAG 2 and
Biresh Kumar Sinha, AC to AAG 2

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-12-2015

Heard learned counsel for the petitioner and the State.

Petitioner made an application with respect to the Advertisement No. 1/2004 issued for appointment and selection of constable in Bihar. He claims to have cleared the physical and other tests conducted by the Selection Committee and his name was also published on the notice board in the merit list of successful candidates in the physical test. However, when the result was announced the candidates having equal and less marks were appointed but the petitioner was not appointed though his certificates were verified and were found to be genuine. Therefore, the petitioner claims to have approached the Chairman of the Selection Committee,

who had informed that he was found to be underage at the time of training as Home guard and as such he was not selected.

It is contended that during the entire training imparted as Home guard this issue was never raised by anybody. On the appointed date for selection, the petitioner was eligible as had already attained the required age, but he still was not selected on the ground that, when he was under going training of Home guard, he was underage. The petitioner placed reliance upon two decisions of this Court, one unreported which has been appended as Annexure 2 and one reported in **Laxman Kumar Mandal Vs. State & Ors. [2004(4) PLJR 580]**. In both the decisions learned Single Judges of this Court have held that it was the age on the concerned relevant date for the purpose of appointment as constable which would be relevant and not the age during which the petitioner was undergoing training as Home guard as they were allowed to complete the training without raising any objection of being below age.

A counter affidavit has been filed on behalf of the respondents stating that ground for not selecting him was his being underage at the time of taking Home guard training. However, it is also stated that his father's name is not tallying as somewhere it is written Badu Yadav and at other place he has been described as Chhedu Yadav.

However, I would be in respectful agreement with the views taken by the learned Single Judges both in **Brajendra Kumar and another Vs. The State of Bihar and ors** and **Laxman Kumar Mandal (supra)**. In my view also, if no objection was ever raised during the Home guard training and the petitioner has successfully completed training and on the relevant date for appointment he has admittedly attained the required age, then the issue that at the time of undergoing Home guard training he was underage cannot form a ground to oust him. So far the variation in the name of father and age is concerned, the same as disclosed in the matriculation certificate of the petitioner, should be easily acceptable to both sides.

In above view of the matter, this writ application succeeds. I direct the respondents to consider the appointment of the petitioner as a constable in BC II category against the existing vacancy as in my view the stand of the authorities by not selecting and appointing him for the aforesaid reason suffers from serious error.

Accordingly, this writ application stands allowed.

(Dr. Ravi Ranjan, J)

Spd/-

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