

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15665 of 2012

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Anil Kumar S/O Ram Janam Prasad Resident Of Village - Parasi, P.S. - Bhagan
Bigha, Distt. - Nalanda

.... Petitioner/s

Versus

1. The State Of Bihar
2. Transport Commissioner, Transport Department, Govt. of Bihar, Patna
3. Secretary, Bihar Staff Selection Commission, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hemendra Prasad Singh, Sr. Adv.
Mr. Awadhesh Prasad Sinha

For the Respondent No.1 & 2: Mr. Kamlesh Kishore, AC to GP-2

For the Respondent No.3 : Mr. S. S. Sundaram

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 21-01-2015

Heard the parties.

2. Originally, the petitioner filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondent Bihar Staff Selection Commission, Patna (in short “Commission”) for publication of his result of the examination conducted by it for filling up 59 posts of Motor Vehicle Inspector on the basis of advertisement no. 2607 of the year 2007. During the pendency of the writ petition, the respondent no.3 by his order/communication dated 11.09.2012 cancelled the candidature of the petitioner, besides others, for the said post. In above view of the matter, the petitioner filed I.A. No. 1205 of 2013 seeking amendment in the writ petition and further seeking leave of this Court to challenge the validity and correctness of the aforesaid order/communication dated 11.09.2012, as contained in Annexure-1 to the aforesaid interlocutory application. By order dated 12.01.2015 passed by this Bench, prayer for amendment was allowed and the amendment sought

for has been incorporated in paragraph-1 of the main writ petition.

3. Learned senior counsel appearing on behalf of the petitioner while assailing the validity and correctness of the impugned order/ communication dated 11.09.2012 has submitted that, in fact, the case of the petitioner and that of one Nagesh Kumar stands on identical and similar footing. According to him, indisputably, the petitioner was allowed to participate in the interview conducted by the Commission in compliance of the order dated 20.3.2012 (Annexure-10) passed in C.W.J.C. No. 16279 of 2010 by a Bench of this Court. Similarly, aforesaid Nagesh Kumar was also allowed to participate in the interview held by the Commission. Result of the successful candidates for appointment on the posts of Motor Vehicle Inspector was published on 20.04.2012, a copy of which has been brought on record as Annexure-12 to the writ petition, wherein the name of the petitioner is at sl. No. 9 and that of Nagesh Kumar is at sl. No. 22, but their results were kept pending. Subsequently, the candidature of aforesaid Nagesh Kumar was rejected/ cancelled by the Commission. Being aggrieved, the aforesaid Nagesh Kumar approached this Court in C.W.J.C. No. 2906 of 2011 assailing the notice issued by the Commission rejecting his candidature on the ground that the particulars of his driving licence were not in the prescribed proforma-II. The writ petition filed on behalf of the aforesaid Nagesh Kumar was finally allowed by order dated 26.03.2012 (Annexure-14 to I.A. No. 7701 of 2014) by a Bench of this Court (Coram: Navin Sinha, J, as His Lordship then was) and the Commission was directed to consider the candidature of aforesaid Nagesh Kumar in accordance with law. It is contended that the candidature of the petitioner has also been cancelled on the ground that the licence produced by him does not mention Proforma-II (Prapatra-II) though all other materials are



reflected in the driving licence produced by him. It is further pleaded that the Commission, being aggrieved by the aforesaid order, preferred L.P.A. No. 1651 of 2012, but ultimately that was dismissed as not pressed by a Division Bench of this Court by order dated 16.05.2014. It is urged that in the light of aforesaid judicial pronouncements by this Court, the case of the petitioner also requires re-consideration by the Commission. It is pointed out that the impugned order/communication dated 11.09.2014 is a non-speaking and cryptic order, and on that ground also it is liable to be set aside.

4. Learned counsel appearing on behalf of the Commission has opposed the prayer made on behalf of the petitioner by referring to the averments made in the counter affidavit filed on behalf of the respondent no.3. It is contended by him that the facts regarding submission of the driving licence by the petitioner in the prescribed Proforma II and that by the aforesaid Nagesh Kumar are not similar and identical. However, despite repeated query by the Court, he has not been able to show from the pleadings that the petitioner has not at all furnished his driving licence.

5. Learned senior counsel appearing on behalf of the petitioner by way of reply, by referring to the averments made in paragraph-11 of the counter-affidavit filed on behalf of the respondent no.3, has submitted that, in fact, candidature of the petitioner has been cancelled by a cryptic order only on the ground that the petitioner did not submit his driving licence in Proforma-II. It is asserted by him that as a matter of fact, the petitioner has submitted his driving licence in Proforma-II, wherein all the particulars are mentioned, but only heading/ top part is missing.

6. After having heard the parties and taking into consideration the entire materials available on record, this Court is of



the opinion that the matter requires reconsideration and fresh decision by the Commission for two reasons: firstly, the impugned order/ communication dated 11.09.2012 cancelling the candidature of the petitioner is a non-speaking and cryptic order; secondly, the petitioner cannot be discriminated and is entitled to have similar treatment, as has been given to aforesaid Nagesh Kumar in view of the judgment and order dated 26.03.2012 passed in C.W.J.C. No. 2906 of 2011 by a learned Single Judge of this Court and not interfered with by the L.P.A. Court. Since the petitioner had furnished his driving licence and if only top part mentioning Proforma-II is missing from there, but other relevant particulars are mentioned in the driving licence furnished by the petitioner, then this Court is of the opinion that the petitioner is also entitled to receive similar treatment as has been given to the aforesaid Nagesh Kumar for the purpose of his appointment/ recommendation and he is also entitled to have the same/ similar relief from the Commission.

7. For the reasons recorded above, the impugned order/ communication dated 11.09.2012 issued by the respondent no.3, so far the petitioner alone is concerned, is hereby set aside and quashed, and the matter is remitted back to the respondent no.3 with a direction to pass an appropriate fresh order after taking into consideration the observations made above. While passing the fresh order, the respondent no.3 shall also take into consideration the observations made by a co-ordinate Bench of this Court by its order dated 26.3.2012 (Annexure-14) passed in C.W.J.C. No. 2906 of 2011 for reconsidering the case of aforesaid Nagesh Kumar. It is directed that the matter shall be decided afresh by the respondent no. 3 or any other competent authority of the Commission at an early date preferably within a period of two months from the date of receipt/ production of

a copy of this order.

8. This writ petition is allowed to the extent indicated above. The parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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