

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9518 of 2014

Vinita Kumari W/o Sri Madan Kumar Sharma Resident of Mohalla Shastri Nagar,
Lane No. 8C, P.S. Mithanpura, District Muzaffarpur.

.... Petitioner/s

Versus

1. The Union of India.
2. The Deputy Inspector General of Police Central Reserve Police Force, Group Centre, Mokamaghat, Patna, Bihar.
3. Group Commandant, Central Reserve Police Force, Mokamaghat, Patna.
4. Ayushi Kumari, having Roll No. AF51903-00012 D/o Arun Kumar Pandey

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan, Adv.
Mrs. Bela Singh, Adv.

For the Respondent/s : Mr. Rajesh Kumar Verma, CGC
Mr. Bijay Kumar Pandey, Adv.

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 20-05-2015

Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads

as follows:-

- “1(i) For directing and commanding the respondents to appoint the petitioner in place of private respondent no.-4, namely Ayushi Kumari as she has wrongly been declared as successful candidate for the post of CT/BUG, held by Central Reserve Police Force, Group Centre, Mokamaghat, Patna, Bihar.
- (ii) Also for directing and commanding the respondent to produce the mark obtained by the petitioner as well as private respondent no.-4 and also produce video graphy done during efficiency test of Bugler.”

Let it be noted that when this case was heard earlier on

18.3.2015, this Court had passed a detailed interim order relevant

portion whereof reads as follows:-

"2. Learned counsel for the petitioner at the outset submits that there has been gross bungling in the selection and appointment of respondent no. 4, inasmuch as, despite the petitioner performing better in written test and Bugler test, has been ranked lower in merit to respondent no. 4. In this regard, it is his case that in course of selection made at the level of group Commandant certain bungs were committed for favouring respondent no. 4.

3. Learned counsel for the petitioner in this regard relies on paragraph no. 10 of the writ application which reads as follows:-

"That it is also pertinent to mention here that the petitioner got more marks in written test than to the private respondent no. 4, namely Ayushi Kumari. It is also pertinent to mention here that even private respondent no. 4, namely Ayushi Kumari did not play properly the Bugler test, which may be verified from the videography done during said Bugler test."

4. In reply thereof, learned counsel for the respondent has relied on paragraph no. 15 of the counter affidavit, which reads as follows:-

"That in reply to the statement made in paragraph no. 7 to 11 and 12 of the writ petition, it is submitted that the procedure adopted by the Board of Officer for selection of candidates was transparent and candidates were informed after every stage. Call letter to successful candidates was issued by the Board of Officers after completion of each stage. It is relevant to state here that sending call letters does not automatically guarantee final selection as it is done purely on the basis of merit. It is further evident from the records that in the final merit list the petitioner was below as she secured less marks than of the marks obtained by the private respondent no. 4."

5. Having regard to the averment of the petitioner in paragraph no. 10 and the stand taken by the respondents in paragraph no. 15 of the counter affidavit, this Court would direct the D.I.G. CRPF, Mokama Ghat, respondent no. 2 to personally examine the video and file the counter affidavit as with regard to the allegation of the petitioner that respondent no. 4 was not able to play the Bugler and in fact was sought to be rejected on account of failure in her pre test. Respondent no. 2 will swear and file such supplementary counter affidavit after examining the answer book of the written test of the petitioner and respondent no. 4 as also videography of the Bugler test of both candidates and after making his own comparative assessment

of performance of the petitioner vis a vis respondent no. 4 in the written test and Bugler test.

6. While adjourning this case for a period of four weeks this Court and directing the D.I.G. CRPF, who had not taken part in the selection process to file his supplementary counter affidavit in aforementioned terms it is made clear if the allegation made by the petitioner is found to be incorrect, she would be subjected to payment of exemplary cost.”

Pursuant to the aforesaid order, supplementary counter affidavit has been filed by Sri Raj Kumar, D.I.G., GC, CRPF, Mokamaghat, Bihar wherein it has been stated as follows:-

- “4. That it is clear from records that in the final merit list Petitioner was below to the Private Respondent, as she had obtained less marks than Respondent no.4 i.e. Ayushi Kumari. It was done as per the Procedure and transparency was ensured during the said recruitment.
5. hat it is stated that selection was done purely on the basis of merit. In fact the petitioner has got 37 marks out of 100 marks in written examination and got 22 marks out of 50 marks in Trade Test, which is less marks in comparison to Aiyushi Kumari (Respondent no.4). Respondent no.4 has got 45 marks out of 100 marks in written examination and got 25 marks out of 50 marks in Trade Test, hence there was no any error in recruitment process in any stage by the authority.
6. That it is humbly submitted that the Trade Test in the said recruitment process was only qualifying in nature. It is humbly stated that the video graphy of the Trade Test is not available, so the deponent could not examine the video.”

Thus, from the materials on record and specially the averments made in the supplementary counter affidavit, it becomes



clear that no anomaly was committed in appointment of respondent no.4 in preference to the petitioner. From the records, it now becomes clear that D.I.G., C.R.P.F. had personally looked into the answer-sheet and other materials and had found that there was no error in ranking of the respondent no.4 above the petitioner, inasmuch as, in the objective type of selection test, while the petitioner had got only -37, respondent no.4 had got 45 marks. The D.I.G. has also clarified that the trade test (Beguiler Test) was only a qualifying test but its marking was not the basis for ultimate selection and appointment, inasmuch as, in the supplementary counter affidavit, he has also stated that both the petitioner and respondent no.4 had qualified in such beguiler test, the petitioner securing 22 marks whereas respondent no.4 had secured 25.

Learned counsel for the respondents have also produced the answer-sheet of the examination conducted by the respondents and this Court has found that such marking of the petitioner vis-à-vis respondent no.4 is correct.

The submission of the learned counsel for the petitioner that for a post of Constable, such written objective test should not have been held or at least merit should not have adjudged on the basis of the same has to be only noted for its being rejected because the petitioner and respondent no.4 both were subjected to a common type

of merit test thus one securing higher marks in the written test was definitely be preferred specially when the trade (beguiler) test was only a qualifying examination.

The other part of the allegation that the respondent no.4 had no basic idea of blowing the beguiler and, for this purpose, this Court should have asked the respondents to produce the videography recorded at the time of conducting such beguiler test will be stretching the matter too far specially when the D.I.G. himself has now come to say that such video tape is not available. In any event, such beguiler test, being only a qualifying test and that too in two parts, firstly theory and secondly practical, when this Court has also looked into the theory portion of the beguiler test, wherein, both of them had qualified, this Court would find it difficult to now set aside the appointment of respondent no.4 on the basis of performance in practical of beguiler test. This Court in fact is satisfied that on the basis of the evaluation of merit of the petitioner vis-à-vis respondent no.4, the latter was found to be better candidate and was eventually appointed.

That being so, this application fails and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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