

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15875 of 2007

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Saroj Kumar S/o Shri Punit Singh, R/o Bheria Rahika, Ward No. – 4,
B.M.P. – VII, Katihar, P.S. & District – Katihar.

.... Petitioner

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna.
2. The Superintendent of Police, Katihar-cum-Chairman, Bihar Military Police, North Zone Selection Board No. – 3, Camp – Katihar.
3. The Commandant, B.M.P. – VII, Katihar.
4. The Reserve Officer, Bihar Military Police – VII, Katihar.
5. The Bihar School Examination Board through its Secretary, Patna – 17.
6. Deputy Secretary (Vigilance), Bihar School Examination Board, Patna – 17.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Madhu Prasun
Mr. A.C.Nirankar

For the Respondent/s : AC to GA-8
Mr. J.P.Shukla
Mr. Ajay

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7. 02-07-2015 Heard learned counsel for the petitioner, learned A.C. to Govt. Advocate – 8, learned counsel, who appears on behalf of respondent no. 1 to 4 as well as learned counsel appearing on behalf of respondent no. 5 & 6/Bihar School Examination Board.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for quashing of an order dated 16-12-2005 to the extent of item no. 3, whereby, the appointment of petitioner alongwith other two persons was cancelled on the ground of furnishing incorrect

information.

Short fact of the case is that as per the Adv. No. 2 of 2004, the petitioner applied for appointment as Constable in the Bihar Military Police (in short “B.M.P.”). After being qualified, an appointment letter was issued in favour of the petitioner, vide Force Order No. 1014 of 2005. In the appointment letter, it was mentioned that appointment is temporary in nature. It was categorically disclosed that in case of any incorrect or false statement, the appointment shall stand cancelled without any notice. After the petitioner was allowed to join, it appears that the Commandant, B.M.P. got the Matriculation Certification verified from the Bihar School Examination Board (hereinafter referred to as the “Board”). Besides petitioner, others’ cases were also referred to the Board. Subsequently, information was furnished by the Board, which indicated that date of birth furnished by the petitioner and other two persons was incorrect and was not tallying with the Board’s records. After getting information, in terms of condition imposed in the appointment letter, the Commandant issued Annexure – 6 i.e. Force Order No. 1456 of 2005, whereby, the appointment of petitioner and other two persons was cancelled.

Sri Madhu Prasoon, learned counsel for the petitioner



assailing the order submits that the petitioner had not made any incorrect information, rather the certificate was provided by the Bihar School Examination Board, in which the date of birth of the petitioner was mentioned as 25-08-1980. Since the certificate was issued by the Board, the petitioner had provided the same certificate at the time of appointment. He further submits that in the counter affidavit of the Bihar School Examination Board, it has been accepted that in the admit card of the petitioner also, the date of birth was mentioned, as was mentioned in the certificate. He further submits that even for the time being, if it is assumed that the date of birth was incorrectly furnished by the petitioner, the said date of birth of the petitioner was not going to render any benefit to the petitioner, since it was difference of only one year. According to the Board, the date of birth of the petitioner was 25-01-1979, whereas, the certificate provided by the petitioner was 25-01-1980. He further submits that after noticing the error in the certificate, the petitioner has already approached the Board for making correction in the certificate. On aforesaid ground, it has been prayed that only on the ground of furnishing incorrect information in respect of date of birth, the appointment of the petitioner was not required to be cancelled.

Learned counsel for the State as well as learned

counsel for the Board have opposed the prayer of the petitioner. Learned counsel for the Board submits that certificate, which was produced by the petitioner, is either fake or tampered, since the same does not tally with the record.

Learned counsel for the State submits that furnishing correct information was the condition precedent for appointment as mentioned in the appointment letter. It was clarified that if subsequently, the information furnished by the petitioner is found incorrect, the appointment shall be cancelled without any notice.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. In view of the appointment letter i.e. **Annexure – 5** to the writ petition, it is evident that appointment of the petitioner was purely on temporary, subject to verification of the certificates and information furnished by the petitioner. Since after issuance of appointment letter, on verification from the Board, it was found that information furnished by the petitioner, in respect of date of birth, was incorrect, the authority concerned has rightly issued the impugned order, whereby the appointment has been cancelled.

In view of the facts and circumstances, particularly; the condition imposed in the appointment letter and the fact of submission of incorrect information, the Court is of the opinion

that while issuing impugned order, no error has been committed.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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