

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6544 of 2015

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1. Dhanjee Rajak, Son of Wakil Rajak, Resident of Village/Mohalla-Sanjalpur, P.O.-Kilpur, P.S.-Andar, District- Siwan.
 2. Sanjay Kumar Kanojiya, Son of Sri Mahesh Prasad Kanojiya, Resident of Village/Mohalla- Thavari, P.S.-Chourai, District- Chhindwara.
 3. Ravi Ranjan Kumar Singh, Son of Sri Raj Kishore Singh, Resident of Village/Mohalla- Mahmampur Balmi (Purani Bazar), P.S.- Motipur, District- Muzaffarpur.
 4. Raju Kumar, Son of Sri Krishna Prasad, Resident of Village/Mohalla- Jagdeo Nagal Ara, P.S.- Nawada, District- Bhojpur.
 5. Sekhar Kumar, Son of Sri Satish Chandra Sharma, Resident of Village/Mohalla- Musahari, P.S.-Ekangarsarai, District- Nalanda.
 6. Md. Insaf Ansari, Son of Mohammad Ansari, Resident of Village/Mohalla- Srisiya Kala, P.S.- Adapur, District- East Champaran(Motihari).
 7. Deepak Kumar Prasad, Son of Sri Yogendra Prasad, Resident of Village/Mohalla- Rajapur, P.S.-Ekma, District- Chapra.
 8. Rupesh Kumar, Son of Sri Jitendra Singh, Resident of Village/Mohalla- Sakari, P.S.- Arwal, District- Arwal.

.... Petitioners

Versus

1. Union of India through Home Secretary, New Delhi.
2. Secretary, Home Department, Govt. of India, New Delhi.
3. Director General of Police, Sheema Suraksha Bal, New Delhi.
4. Director General of Police, Central Industrial Security Force, New Delhi.
5. Staff Selection Commission, Allahabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Adv.

For the Respondent/s : Mr. Manoj Kumar Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 01-05-2015

Heard learned counsel for the parties.

The prayer of the petitioners in this writ application reads as follows:

“For quashing/ setting aside the order dated 30.8.2014 issued under the signature of Deputy Commandant 60th Batalian Shima Suraksha Bal whereby the petitioners who have been appointed in Shima Suraksha Bal and



have worked there for eight months on completing the training of S.S.B. have been subjected to change/ transfer to C.I.S.F. and for staying the operation of the said order during the pendency of the writ application and for a further direction to the respondents to allow the petitioners in Sheema Suraksha Bal as before and for grant of such other relief/ reliefs which the petitioners be found entitled to.”

Learned counsel for the petitioners while assailing the impugned order has submitted that once the petitioners were selected and appointed as a Constable in the establishment of Seema Suraksha Bal (SSB) and had also received the training while remaining posted for a period of eight months, they could not have been subsequently sent from SSB to Central Industrial Security Force (CISF). Learned counsel in this regard has firstly submitted that there is no provision for such transfer of a Constable appointed in SSB to their being sent to CISF. He has also highlighted on the aspect that such shifting by way of transfer of the petitioners from SSB to CISF could have been done only on the basis of their own volition/ consent but the petitioners had never given any such consent and to that extent he relies on the averments made in paragraph no.9 of the writ petition.

Learned counsel for the respondents, on the other hand, has pointed out that there was a common advertisement for all the



four organizations, namely, SSB, CISF, BSF and CRPF for the common post of Constable (GD). The selection was to be made under the control and supervision of the Ministry of Home of the Govt. of India and therefore, once it was found that not only the petitioners but many others initially selected and also sent for training in SSB could not retain over there, they were asked to give their option showing their willingness for transfer from SSB to CISF and only those persons including the petitioners have been shifted from SSB to CISF who had given their such consent. To that extent he relies on the statement recorded in the impugned order dated 30.8.2014 which reads as follows:

“ Government of India
Ministry of Home Affairs
Sashastra Seema Bal
Office of the Commandant
60th Bn SSB Camp at 33rd Bn
SSB Rangia, Kamrup, Assam.
Pin Code No. 781354
No.01/67/SSB/60th Bn/ Change of Force allocation/
2014/6094-107 Dated 30.8.14

ORDER

In pursuance of Force HQ Memorandum No.8/SSB/Pers-II/2013(34)-40157-93 dated 18.11.2013 and in consequent upon direction of Hon'ble High Court Delhi on its judgment dated 5.11.2012 and WP(C) No. 6961/2012, 7.11.2012 and WP(C) No. 6911/2012 and



14.12.2012 in WP(C) No. 7651/2012, Staff Selection Commission (SSC) has issued revised result for the post of Constables (General Duties) on the basis of their merit cum choice for the recruitment year 2011 and accordingly issued revised Force Allocation in respect of following Constable (GD) listed in Annexure –A of this Unit and allotted to CISF who have been furnished their option certificate willing for change of Force from SSB to CISF vide Force Headquarters, SSB New Delhi fax message No. 08/SSB/ Pers- II/ 2013/(34)/2704 dated 6.2.2014.

2. In this regard, in compliance of Force Headquarters, SSB New Delhi office letter no. 08/SSB/ Pers- II/ 2013/(34)/16506-36 dated 22.7.14, Constables (GD) of the Unit listed in above annexure have been relieved from this Unit on 30.8.14 (AN) with direction to report CISF RTC Arakkonam, Post Surakasha Campus, District Vellore, Tamil Nadu- 631152 to join their allotted Force on or before **6.9.2014**.

3. Accordingly, they have been struck off from the strength of 60th Bn SSB from the same date i.e. 30.8.14 (AN).

Requests confirm their safe arrival please.

It is certified that:-

1. They are entitled for usual joining time JT/TTA as admissible under rule.
2. They have deposited their Govt. Kit items.
3. No any DE/Vigilance cases are pending or contemplated against them.

4. They have deposited their old identity card.

(N.K.Tamta)
Dy. Commandant
Offg. Commandant
UIN- 10020006
60th Bn SSB Rangia”

A bare reading of the impugned order and its annexures containing the name of 90 persons being shifted from SSB to CISF would go to show that a conscious policy decision was taken by the Ministry of Home not only to shift the petitioners but 82 alike them. The reason for such shifting also is based on the analysis of the result of merit cum choice. That would mean that initial allocation made for the combined recruitment of four forces, namely, BSF, CISF, CRPF and SSB were reviewed and the allocation was made on the basis of principles of merit cum choice and that too after obtaining consent.

Let it be noted that the petitioners have not assailed the decision on the ground that anyone having lessor marks or being inferior in merit have been retained in SSB causing discrimination to them.

The denial of the petitioners of having not given consent also is very interestingly explained in paragraph no.5 read with paragraph no.9 of the writ petition which are quoted hereinbelow:

“5. That the petitioners had given their joining in S.S.B

and they were sent for training. The petitioners had successfully completed the training and they were posted in S.S.B. where they had given their joining which were accepted.

9. That it is stated and submitted that the petitioners had given their declaration for posting and continuance in the S.S.B. at the initial stage. They had never knowingly and consciously signed any paper for their transfer/ shifting from S.S.B. to C.I.S.F.”

A bare perusal of the aforesaid statements would go to show that the petitioners now want to make out a case that though they had signed the consent form but they had done it under pressure or coercion and had never given their consent for being shifted from SSB to CISF on their own volition. This can never be proved by the respondents because that was not produced before this Court by the petitioners. The petitioners do not deny that they had signed the consent form but they now want to make out a case that such consent was never given by them knowingly and consciously. This is definitely an evasive approach. As a matter of fact when the petitioner Rupesh Kumar (petitioner no.8) had alone filed his representation against his being shifted from SSB to CISF he did not say a word that he had not signed the consent form or that such consent form was obtained from him by any pressure or coercion. In fact not a word has been said about his consent in his

representation, which reads as follows:-

Date : January 12, 2015,

Place : Mumbai

From : Rupesh Kumar, Constable, GD.

SSB Force No.: 131011987 CISF Force No.:140402937

CISF, Dockyard Road, Mazagoan, Mumbai-400010

Mobiel No. 9199453616

Email- rupesh.kumar.shakri@gmail.com

To,

1. The Director General,
office of the Director General,
Govt. of India,
Ministry of Home Affairs,
SASHASTRA SEEMA BAL,
FORCE HEADQUARTERS
EAST BLOCK-V
R.K. PURAM
NEW DELHI-110 066.
2. The Director General
CISF, New Delhi
3. The Commandant,
60th Battalion, Rangia - 1, Assam.

Sub : Requesting Transfer back to SSB from CISF.

Dear Sir,

Most Respectfully I beg to say that I joined to SSB on 02-APRIL-2013 at Bhopal Training Centre, M.P., I completed and passed my eleven month Training with SSB, My SSB Constable Number is 131011987.

During February 2014, was posted for a period of 08



months at SSB, 60th Battalion, Rangia, Assam. As per a direction of Honorable Supreme Court of India, it was optional that either we may continue with SSB or we move to CISF. On that time, I given a written request to Deputy Commandant of SSB, 60th Battalion, Rangia, Assam, that I Rupesh Kumar is not interested to move to CISF and I expressed my desire to continue with SSB, since I got trained and got work experience through SSB only.

In spite of my request to continue my service with SSB, I get transferred to CISF, Arkonnam, Tramilnadu, On the time our other co-worker of 60th Battalion, Rangia, Assam continued their service with SSB.

I Joined to CISF, Arkonnam, Tamilnadu on 07 Sep. 2014, immediately after that I made a written request to D.I.G., CISF, Arkonnam, Tamilnadu to send me back to SSB, I got oral response that CISF has forwarded my written application to I.G., CISF, Hyderabad but till yet we had not received any reply of my application. After this we written 02 reminder letters to D.I.G., CISF, Tamil Nadu, but I did not received reply of my any correspondence.

Also, I had written 02 requests earlier to DG, SSB, New Delhi and DG, CISF, New Delhi in past, but not received any reply from any office.

This is requested to again that please allow my re-joining to SSB, I had received training at SSB, and feel myself as part of SSB. I am doing my duty with CISF but my heart is with SSB only. Therefore, I feel mentally troubled and

Looking the way to back to go to SSB.

While I not receive any reply form any office on my application, it increase my mental agony. I am worried about my future and career. Please held me by calling back to SSB. I shall remain obliged of yours for considering my application.

Thanking you,

Sincerely

Rupesh Kumar, Constable , GD.

SSB Force No: 131011987 CISF Force No. : 140402937

CISF, Dockyard Road, Mazagoan, Mumbai-400010.

Mobile No. 9199453616

Email- rupesh.kumar.shakri@gmail.com

In that view of the matter, when this Court would find that the recruitment was made against available posts in the four organizations and the merit cum choice was the basis for posting and the petitioners were taken into SSB whereafter the issue of merit cum choice was gone into not only in their cases but at least 82 other cases it would not find any ground to interfere with the impugned order which has already been acted upon by the petitioners by joining the CISF organization.

That being so, this application must fail and is accordingly dismissed.

Before parting with, this Court must clarify that the

petitioners are having some misconceived apprehension that if they had been shifted out from SSB to CISF they would be loser in any way either in respect of their terms and conditions of service including emoluments and/or seniority which they were entitled to in terms of the advertisement.

(Mihir Kumar Jha, J)

surendra/-

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