

IN THE HIGH COURT OF TRIPURA
A G A R T A L A

W.P.(C) No.350 of 2014

Sri Pabitra Pathak,

(Ex. Constable/GD No.025131259),
son of Sri Premcharan Pathak,
Village- Bairapur, P.O. Bairapur
(Noontala), P.S. Sorbhog, District –
Barpeta, Assam.

Presently residing at
Chandrasinghpara, P.O. Karbook,
P.S. Karbook, Amarpur, District –
Gomati, Tripura

..... **Petitioner**

- V e r s u s -

1. The Union of India,

represented by the Home Secretary,
Ministry of Home Affairs,
Government of India, North Block,
New Delhi, PIN 1110001.

2. The Director General of Police,

C.G.O. Complex, Central Reserve
Police Force, Lodhi Road, P.O. Lodhi
Road, New Delhi 110003.

3. The Deputy Inspector General of Police (Law),

Directorate General, Central Reserve
Police Force, C.G.O. Complex, Lodhi
Road, P.O. Lodhi Road, New Delhi
110003.

4. The Deputy Inspector General of Police (Admn.),

Directorate General, Central Reserve
Police Force, Lodhi Road, P.O. Lodhi
Road, New Delhi 110003.

5. The Deputy Inspector General of Police,

Group Centre, Central Reserve Police
Force, Guwahati-23, Assam, PIN –
781 001.

6. The Deputy Inspector General of Police,

Group Centre, Central Reserve Police
Force, Kadarpur, P.O. Kadarpur,
Gurgaon, Haryana, PIN 122001.

7. The Commandant,

120 Bn. C.R.P.F. P.O. Dakoptgiri,
P.S. Tura, District – West Garo Hill,
Meghalaaya, PIN 794001

..... Respondents

BEFORE
THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR.JUSTICE S. TALAPATRA

For the petitioner : Mr. D.C. Saha, Advocate.

For the respondents : Mr. P. Majumder, Advocate.

Date of hearing and delivery : **24.02.2015**
of judgment and order

Whether it is fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

By means of this petition, the petitioner has challenged the order dated 22nd July, 2014 whereby he has been dismissed from service.

[2] The undisputed facts are that the petitioner obtained service as a constable in the Central Reserve Police Force (CRPF) by showing himself to be a member of Scheduled Tribe. This certificate showing him to be a Scheduled Tribe was found to be false and a show cause notice was issued to the petitioner on 3rd July, 2007. After verification, the Scheduled Tribe certificate produced by the petitioner was found to be false and on 24th

December, 2007, the petitioner was dismissed from service. The petitioner thereafter filed a writ petition before the Agartala Bench of Gauhati High Court being W.P.(C) No.99 of 2012.

[3] We may at this stage mention that the petitioner did not challenge the finding of the Disciplinary Authority that he did not belong to a Scheduled Tribe. He in fact admitted the same. His main grievance was that whereas the other members of the Force who had also produced wrong/false certificates showing them to be the members of the Scheduled Tribe [*Koch Rajbangshi*' was an other backward class (OBC) and not a Scheduled Tribe] were retained in service, the petitioner was removed from service. The writ petition was disposed of without going into the merits only on the grounds that since similar persons had been treated differently, the petitioner should also be given a hearing and treated similarly to the other CRPF constables.

[4] Thereafter, the Commandant passed an order dated 29.07.2013 in favour of the petitioner and held him entitled to 50% back wages. The petitioner filed an application for grant of wages and in the meantime, the matter reached the office of the Deputy Inspector General of Police, CRPF Range, Guwahati. It appears that the order passed by the Commandant was also examined at the directorate level and the higher authority found that the case of the petitioner was different from that of the other constables inasmuch as the certificate produced by the

petitioner was a totally forged or fake certificate and had never been issued. According to the order dated 22nd July, 2014, the other constables who were reinstated in services had produced certificates showing that they belong to '*Koch Rajbangshi*' and this caste had been shown to be a member of the Scheduled Tribe but the certificate was issued by the competent authority competent to issue such certificate. In respect of the petitioner the finding given was that no such certificate had been issued by the concerned authority at Barpeta, Assam.

[5] We have only given the facts to understand the dispute and we are not commenting on the merits of the case. If the allegation made by the CRPF is correct that the initial certificate is totally a fake and forged certificate then the case of the petitioner would not be similar to the other constables. However, we are clearly of the view that before any such decision could be taken by the higher authority whereby the order passed in favour of the petitioner was to be set aside, the principles of natural justice required that the petitioner should be given a hearing before decision of this case.

[6] We therefore, set aside the impugned order dated 22nd July, 2014 without expressing any view on the merits of the case. The appropriate authority of the CRPF is at liberty to issue notice to show cause to the petitioner, who shall reply to the show cause notice within 15(fifteen) days of the receipt thereof

and appear before the authority and satisfy the authority whether the certificate issued in his favour was genuine or not.

[7] It is made clear that though the impugned order has been set aside, the petitioner shall not be entitled to reinstatement or monetary benefits till the decision is taken by the appropriate authority pursuant to this judgment passed by us. Needless to say that if the decision goes in favour of the petitioner, he shall be entitled to 50% back wages till 2014 and thereafter full back wages. However, if the decision goes against him, then he will not be entitled to get any benefits.

With this observation and direction, this writ petition stands disposed of.

JUDGE

CHIEF JUSTICE

Sujay