

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1424 of 2011

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Rakesh Kumar Mishra, son of Sri Uday Shankar Mishra, resident of village Mohanpur, P.O. Basantpur, P.S. Muffasil (Ara,) District Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar Through Home Secretary
2. The Central Selection Board (Constable Recruitment) ,Bihar, Patna
3. The Chairman Of Central Selection Board (Constable Recruitment), Bihar, Patna
4. Secretary , Central Selection Board (Constable Recruitment), Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jogendra Kumar, Advocate
For the Respondent/s : Mr. Sanjay Pandey, Advocate
AC to SC No. 15

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 12-01-2016

Heard Sri Jogendra Kumar, learned counsel for the petitioner, learned AC to SC No. 15 as well as Sri Sanjay Pandey, learned counsel, who has appeared on behalf of the respondent no. 2 to 4/ Central Selection Board (Constable Recruitment).

The petitioner invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has prayed for directing the respondents to consider the case of the petitioner for being appointed as Constable in the District Police.

A plea has been taken that despite the fact that petitioner qualified in the written test as well as physical test, his name was not included in the list of selected candidates. The petitioner has claimed

appointment as Constable against general category.

In this case earlier a counter affidavit was filed on behalf of the respondent no. 2 to 4 and a specific stand was taken that the last candidate in the general category had obtained 113 marks, whereas, petitioner had obtained only 14 marks. After noticing this fact the court was surprised to note as to under what circumstances once petitioner had obtained only 14 marks, he was called for physical test. Thereafter, by order dated 29.10.2015 Sri Pandey, learned counsel for the respondent/ Central Selection Board (Constable Recruitment) was asked to get instruction and clarify the position. In compliance with the order dated 29.10.2015 a supplementary counter affidavit has been filed on behalf of the aforesaid respondents and position has been clarified. Sri Pandey submits by way of referring to the statement made in paragraph no. 5 of the supplementary counter affidavit that due to some scanning error the petitioner though had claimed for being appointed as general category, he was treated in the Home Guard category, and as such, the petitioner was allowed to participate in the physical test. However, the said error, was subsequently rectified and it was noticed that in the general category the last candidate had obtained 113 marks in the written test, whereas, the petitioner had obtained only 14 marks, and as such, petitioner's name was not included in the finally selected list.

Learned counsel for the petitioner has tried to persuade the court that a bald statement has been made, which may not be accepted. However, to the supplementary counter affidavit no rejoinder has been filed, nor it is the case of the petitioner that he had obtained more marks than the last candidate selected in the general category.

In view of the facts and circumstances, I do not find any ground for passing any positive order in favour of the petitioner.

The writ petition stands disposed of.

(Rakesh Kumar, J)

Praful/-

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