

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2089 of 2015

In
Civil Writ Jurisdiction Case No. 13750 of 2015

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Pankaj Paswan, son of Shri Ram Yug Paswan, Resident of village- Sonpur,
P.O.- Chandrapur, Police Station- Tilaiya, District- Rohtas

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Personnel, Government of Bihar, Patna.
3. The Secretary, Central Selection Board (Constable Recruitment) Patna.
4. The Chairman, Central Selection Board (Constable Selection) Patna.
5. The Public Information Officer, Central Selection Board (Constable Recruitment) Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant : Mr. Sajid Salim Khan, Advocate
For Respondent Nos.1 & 2 : Mr. A.C. to G.P.-10
For Respondent Nos.3 to 5 : Mr. Pushkar Narain Shahi, Sr. Advocate
with
Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

4 24-02-2016 The appellant herein was one of the applicants for the post of Constable in a selection process, which commenced with the publication of Advertisement No.1 of 2014. The appellant's correct date of birth is 10th of October, 1991; whereas, while applying for the post of Constable in the said selection process, the appellant mentioned his date of birth as 10.10.1992. Because of the fact that the date of birth mentioned by the appellant, in his application for the said post, was incorrect, the appellant's

candidature was rejected.

Aggrieved by the decision of this rejection, the appellant filed a writ petition, under Article 226 of the Constitution of India, which gave rise to CWJC No. 13750 of 2015.

By order, dated 13.10.2015, a learned single Judge of this Court has dismissed the writ petition. Aggrieved by the dismissal of his writ petition, the appellant has preferred this appeal.

We have heard Mr. Sajid Salim Khan, learned Counsel, for the appellant, and Mr. Pushkar Narain Shahi, learned Senior Counsel, appearing for the Central Selection Board (Respondents No.3 to 5).

Mr. Sajid Salim Khan, learned Counsel for the appellant, submits that the incorrect date of birth mentioned by the appellant, while applying for the post of Constable in the present case, was a mere human error inasmuch as the appellant was not gaining anything by incorrectly mentioning his date of birth.

The fact that the appellant would not have gained anything by mentioning incorrect date of birth is not in dispute. What has, however, been submitted, on behalf of the

respondents, that it had been specifically mentioned in the advertisement itself, while inviting applications, that the date of birth and other particulars must be correctly mentioned and the failure, in this regard, would entail rejection of the application.

We do not find that the respondents were incorrect or acted arbitrarily in adhering to the condition of recruitment, which had been mentioned in the advertisement in the manner, as indicated above. This apart, we find that the appellant is a candidate, belonging to the category of Scheduled Caste and, in the said selection process, no post of Scheduled Caste category (Male candidate) has been left vacant.

Situated thus, we do not find that the learned single Judge has committed any error in rejecting the writ petition. We may have interfered with the rejection of the candidature, had there been vacant post of Constable for the category of candidates to which the appellant belonged. Coupled with this, it has also been brought to our notice that in the process of selection, candidature of a few candidates has also been rejected, because of similar default, as in the case of the appellant, and, hence, it would be iniquitous to grant relief only to the writ petitioner and not similarly situated other candidates.

Under such circumstances, it would have been

iniquitous to issue any mandamus for consideration of the appellant's application for appointment even when other candidates have not been given any such advantage. The appeal, thus, stands dismissed.

(I.A. Ansari, ACJ)

(Anjana Mishra, J)

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