

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4674 of 2016

Manjish Kumar, son of Naresh Prasad, resident of Mohalla- Mai Maneer, P.O. Sonmai, P.S. Dhanarua, District- Patna.

.... Petitioner

Versus

1. The Union of India , Ministry of Home, Department of Home Affairs, New Delhi.
2. Staff Selection Commission (Central Ranger), Allahabad, 21/23-Lowther Road, Allahabad, 211002.
3. Chairman, Staff Selection Commission (Central Ranger), Allahabad, 21/23-Lowther Road, Allahabad, 211002.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Sinha, Adv.

For the Respondent/s : Mr. Anjani Kumar Sharan, Adv.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 14-09-2016

Heard counsel for the petitioner and the counsel for the Union of India.

Petitioner was one of the applicants for appointment on the post of Constable (General Duty) in the Central Armed Forces Examination. The same was held in the year 2014.

Grievance of the petitioner is that even though his name figured in the list of successful candidates having 70 marks, still the petitioner was not appointed. He further pleads discrimination. The petitioner has drawn attention of the Court to the appointment of one Sri Basant Kumar having only 66 marks.

Mere declaration of result of a candidate does not make him eligible for appointment. It all depends upon number of candidates,

who have qualified, may be with similar marks, and vacancies which are required to be filled up emerging from the merit position.

The stand of the Union of India, emerging from paragraph 6 to paragraph 10 of the counter affidavit, can be summed up in the following words that the petitioner was tied with the last candidate who became eligible for recommendation and appointment under CRPF. In case of a tie, a detailed resolution in the advertisement itself has been provided for and the same formula has been applied in the case of the present petitioner. To be precise, paragraph 10 of the counter affidavit is reproduced hereinbelow, which sums up the issue:

"That as per the criteria mentioned in para 8 above for resolving the 'Tie case', it is pertinent to mention here that the last selected OBC category candidates for preference 'C' had scored 70 marks with 22 marks in part A, whereas the petitioner Shri Manjish Kumar also scored 70 marks but his marks in part 'A' was 20. Therefore, Shri Manjish Kumar failed to find place in the list of qualified candidates for the vacancies allotted to Bihar State for OBC category due to his low merit in part 'A' as per criteria (b) for resolution of tie cases."

In view of above position, obviously the petitioner could not be appointed even though he did figure in the list of successful candidates.

So for the discrimination, which has been urged at the Bar, vis-à-vis one Sri Basant Kumar, who too belongs to OBC category, the respondents have explained the position in the following terms

which is evident from paragraph 24 of the counter affidavit:

"That with regard to para 12 and 13 of the writ petition under reply, it is submitted that Roll No. 3206543410 was allotted to Shri Basant Kumar who had also applied for the said examination. Shri Basant Kumar belongs to OBC category and is a domicile of Naxal/ Militancy affected area of State Code 05 (Bihar), whereas petitioner belongs to general area of State Code 05 (Bihar). Shri Basant Kumar, Roll No. 3206543410 has been declared qualified to the post of constable in Revised Result declared on 30.5.2014 for preference 'C' (CRPF) against Naxal (N) vacancy.

The last selected OBC category candidate of Naxal are had scored 63.00 for the vacancy allotted to State Code 05(Bihar), whereas Shri Basant Kumar scored 66.00 marks."

This being factual state of affairs, what the counsel for the petitioner seeks as a right of the petitioner, is not established from the facts and reasons indicated above.

Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.9.2016
Transmission Date	NA