

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.300 of 2014

IN

Civil Writ Jurisdiction Case No. 24949 of 2013

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Mahes Kumar, S/o Nandji Singh, Resident of Village- Kaithi Dera, P.O- Kaithi, P.S- Bagengola, District- Buxar (Bihar)

.... Appellant

Versus

1. The Union of India through the President, Staff Selection Commission, Block No. 12, Kendriya Karyalaya Parisar, Lodhi Road, New Delhi.
2. The Deputy (Assistant) Director (NWR), Staff Selection Commission, Block No.3, Ground Floor, Kendriya Sadan, Sector- 9, Chandigarh- 160017 (Punjab)
3. The Regional Director (Central Region), Staff Selection Commission, 21-23, Loather Road, Allahabad (U.P)
4. The Deputy Director, Staff Selection Commission, Central Region, 21-23, Loather Road, Allahabad (U.P)

.... Respondent/s

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Appearance :

For the Appellant : Mr. Jitendra Prasad Singh, Advocate.
Mr. Abhishek, Advocate.

For the Respondents : Mr. Rajesh Kumar Verma, CGC.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 04-03-2016

Heard learned counsel for the appellant and the Union of India.

2. The challenge in the present Letters Patent Appeal is to an order dated 03rd of January, 2014 passed in C.W.J.C. No. 24949 of 2013, whereby the learned Single Bench dismissed the writ application filed by the appellant seeking appointment to the post of Constable (General Duty) in Indo Tibetan Boarder Police Force.

3. The facts are not in dispute. The appellant claims that though he belongs to OBC category but applied for a post advertised without disclosing that he belongs to OBC category. In the advertisement and the Application Form there were stipulations that if the candidate does not apply for reservation, he has to be treated as unreserved candidate. Therefore, the appellant was treated to be unreserved candidate and not selected being lower in rank.

4. The grievance of the appellant is that when he appeared for physical and written test, he disclosed that he is an OBC candidate, therefore, he was permitted to appear in the written and physical test as OBC candidate. But in the final result, he was treated as General Category candidate and thus was not successful for appointment. Therefore, the respondents be directed to treat the appellant as OBC candidate.

5. We do not find any merit in the said argument. The instruction in the advertisement and in the Application Form was clear that a candidate who does not opt for reserved category will have to be treated as General Category Candidate. In view of the said fact, the appellant has been treated to be a General Category Candidate. The officers conducting the test have no authority to change the terms of the advertisement or the rules of application. Still further, there can be many others who were similarly situated who may have given their category wrongly in the application form. Benefit to one will mean denial of benefit to many others. It will be an unfair process. It may be noticed that the recruitment process came to an end in the year 2011. Any interference in equity at this stage will be unjust and unfair.

6. It is always open to the appellant to apply afresh in accordance with law and that the decision of the present order will not debar the appellant from claiming the benefit of OBC category in any subsequent selection process.

7. In view of the said fact, we do not find any error in the order passed by the learned Single Bench. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Navaniti Prasad Singh, J)

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