

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10612 of 2011

=====

Kaushelendra Kumar son of Bind Prasad resident of Village - Khalim chak,
Post - Salempur, Police Station - Karaiparsarai, District - Nalanda.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Police), Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Central Selection Board (Constable Recruitment) through its Secretary, Bihar, Patna.
4. The Chairman, Central Selection Board (Constable Recruitment) Bihar, Patna.
5. The Secretary, Central Selection Board (Constable Recruitment) Bihar, Patna.
6. The Superintendent of Police, East Champaran at Motihari.

.... Respondents

=====

Appearance :

For the Petitioner :	Mr. Rajesh Kumar Singh
For the State :	Mr. Ajay Bihari Sinha, SC-19
	Mr. Suryakant Kumar, AC to SC 19
For the C.S.B.(C.R.) :	Mr. Sanjay Pandey
	Mr. Binod Kr. Mishra
	Mr. Vivek Anand Amritesh

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL JUDGMENT
Date: 17-03-2016

Heard Sri Rajesh Kumar Singh, learned counsel for the petitioner, learned A.C. to Standing Counsel - 19 as well as Sri Sanjay Pandey, learned counsel who has appeared on behalf of respondent no. 3 to 5/Central Selection Board (Constable Recruitment) [for short 'Selection Board'].

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has mainly prayed for

directing the respondents to accept his joining on the post of Constable, in view of his selection, in response to Advertisement No. – 2 of 2009.

It has been claimed that as per advertisement for appointment to the post of Constable, the petitioner applied, participated in the selection process and after being found fit, he was recommended by the Central Selection Board for being appointed, as Constable. The petitioner was asked to join East Champaran at Motihari. It has been asserted that while the petitioner went to join East Champaran, Motihari, in view of recommendation, the height of the petitioner was re-measured by the concerned Superintendent of Police and at the time of re-measurement, he was found below the prescribed height. At the time of measurement by the Superintendent of Police, his height was considered, as 164.4 cm., which was less than 165 cm., which was minimum height. A plea has been taken that once the petitioner, after being measured by the Selection Board, was found fit, there was no occasion for subsequent measurement.

However, Sri Pandey, learned counsel for the respondent/Selection Board submits that earlier since discrepancy had occurred on number of occasions, this procedure was adopted for re-examining at the time of joining and as such, at the time of

joining, re-measurement was not incorrect.

Sri Pandey further submits that after re-measurement by the concerned Superintendent of Police, the height was again re-measured by the Selection Board and on re-measurement also, it was found that the petitioner was short of prescribed height.

Learned counsel for the petitioner, placing reliance on an order of a Single Bench order of this Court dated 18-04-2011 passed in **C.W.J.C. No. 19448 of 2010 (*Indrajeet Kumar -vs.- The State of Bihar & Ors.*)**, submits that in similar circumstance, the petitioner of the said case on re-measurement was found unfit, thereafter, he approached this Court and this Court issued a direction for his re-measurement after deposit of Rs. 5,000/- (five thousand). The direction in the said case was issued to the Director General of Police. He submits that after the order of this Court in C.W.J.C. No. 19448 of 2010, Sri Indrajeet Kumar (petitioner of the said case) was re-measured and he was found fit for being selected and thereafter, he was asked to join. A prayer has been made that since identical situation has arisen in the present case, this writ petition may also be disposed of in terms of order dated 18-04-2011 passed in C.W.J.C. No. 19448 of 2010.

Sri Pandey has also not disputed the fact regarding the case of Indrajeet Kumar and as such, the Court is of the considered

view that this writ petition can also be disposed of in terms of order dated 18-04-2011 passed in C.W.J.C. No. 19448 of 2010, with an observation that the Chairman of the Central Selection Board on deposit of Rs. 5,000/- (five thousand) by the petitioner within eight weeks may ensure re-measurement of the petitioner and if it is found that the petitioner is having 165 cm. height, necessary order may be issued for appointing the petitioner and in case, again it is found that the petitioner is having less height than the prescribed height, his deposited amount of Rs. 5,000/- shall be forfeited. It is made clear that if in the re-measurement, the petitioner is found fit for being appointed, the deposited amount of Rs. 5,000/- shall be returned without any delay. All the formalities may be completed within a period of eight weeks from the date of deposit of the amount of Rs. 5,000/- (five thousand), in terms of order dated 18-04-2011 passed in C.W.J.C. No. 19448 of 2010.

The writ petition stands disposed of.

(Rakesh Kumar, J.)

Anay

U			
---	--	--	--