

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8204 of 2013

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1. Mahadeo Pandit S/O Tirthanand Pandit R/O Villge- Baghmara, Police Station-
Manihari, District- Katihar

2. Md. Yaqub Mansuri S/O Md. Ismail R/O Village- Majadia, Police Station-
Kursela, District- Katihar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary Home (Special) Department, Government of Bihar, Patna
3. Additional Director General Of Police (Home Guard) Bihar, Patna
4. District Magistrate, Katihar
5. Superintendent of Police, Katihar
6. District Commandant, Bihar Home Guard, Katihar

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Uday Chand Prasad
Mr. Binod Kumar Sinha

For the Respondent/s : Mr. Archana Sinha, A.C. to G.P.31

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-05-2016

1. Heard learned counsel for the petitioners and learned
counsel for the State.

2. In this case, the petitioners are seeking relief for giving
direction for the appointment to the post of Home Guard in the
District of Katihar as they have been validly selected against the
advertisement No.1 of 2009.

3. As per the claim of the petitioners they belong to the
B.C.-I category. The petitioner No.1 applied for the post of Home

Guard for Manihari Block whereas the petitioner No.2 applied for Kursela Block.

4. The petitioners were called for the physical test as well as medical test and thereafter merit list was prepared. As the petitioners were found successful, they were served letter dated 29.7.2011 issued by District Commandant for verification of the certificates, but thereafter the petitioners were not appointed. Submission has been made that they were served the letters (Annexure-4 series), which itself show that the petitioners were selected, no reason has been assigned why finally they have been refused for appointment.

5. The State has filed counter affidavit. Annexure-A of the counter affidavit speaks that the petitioners fall under B.C.-I category, last selected person is standing at serial No.23 in the merit list has obtained 10 marks and the petitioner No.1 has obtained only 7 marks is standing at serial No.68 in the merit list, with respect to petitioner No.2, there is no post of B.C.-I category for Kaushela block and by mistake they have wrongly been shown selected, later on the mistake was corrected.

6. Learned counsel for the petitioners has filed reply to

the counter affidavit, where he has stated that the documents are manufactured and has been created after filing of the writ application. He submits that this chart/decision has been taken on 27.06.2013 without giving any proper notice to the petitioners.

7. The letter dated 27.6.2013 has been addressed to the petitioners by the District Commandant, Bihar Military Services, Katihar, which itself shows that the petitioners were informed that they were wrongly shown to have been selected, in fact, position of petitioner No.1 is below in the merit list.

8. Learned counsel for the State submits that the position of the petitioner No.1 much below in the merit list, whereas there is no vacant post in B.C.-I category. The administrative action can be rectified at any stage; no person can say he is infallible. The petitioners cannot take advantage of the error committed by the authority concerned and mere service of letter for verification of the certificates does not mean that the petitioners have been appointment.

9. Having considered the rival contentions of the parties, the petitioner No.1 is not disputing his positions in the merit list and the last selected person is at serial No.23 has obtained 10 marks, whereas the petitioner No.1 has obtained only 7 marks standing at

serial No.68. So far the petitioner No.2 is concerned, from the record it is clear that there is no post of B.C.-I category for Kaushela block. In view of the undisputed facts, this court is of the view that the error can be rectified by the administration and there is no bar to rectify the error committed earlier. Human to commits error and error can be rectified at any time.

11. In such view of the matter, this Court does not find any merit in the present writ application. Accordingly, this writ application is dismissed.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	
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