

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17778 of 2011

Santosh Kumar, son of Ganesh Paswan, resident of Mohalla-Teja Tola,
Post-Katihar, Police Station-Katihar, District-Katihar

.... Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Chairman, Central Selection Board for Constable, Bihar, Patna
3. The Inspector General, B.M.P., Bihar, Patna
4. The D.I.G., Purnia Zone, Purnia
5. The D.I.G. Patna
6. The Superintendent of Police, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Chandra Bharti, Adv.

For the Respondent/s : Mr. AC to AAG-3
Mr. Sanjay Pandey, Adv.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 27-04-2016

Heard Sri Ram Chandra Prasad Bharti, learned counsel for the petitioner, learned AC to AAG-3 as well as Sri Sanjay Pandey, learned counsel, who has appeared on behalf of Respondent/ Central Selection Board (Constable Recruitment).

2. The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has made a prayer for directing the Respondents to incorporate his name in the final selection list and appoint him on the post of constable. It has been pleaded that pursuant to advertisement published in the year 2009, the petitioner applied for the post of constable. He participated in the



written test and qualified and, thereafter, he participated in the physical test also. However, no information was given to the petitioner regarding his selection, whereas a stand has been taken in the writ petition that orally he was informed that appointment letter will be issued. In paragraph-10 of the writ petition itself, it has been stated that unknowingly the petitioner marked in the application form as a Scheduled Tribe candidate in place of Scheduled Caste candidate. The petitioner was having certificate of Scheduled Caste.

3. Learned counsel for the petitioner placing reliance on a Division Bench order of this Court passed on 26.02.2015 in L.P.A. No.1221 of 2012 has argued that only on hyper technical ground that the petitioner had declared in the application form as of another category may not be a ground to reject the selection of the petitioner.

4. Sri Pandey, learned counsel for the Respondent/ Selection Board submits that the petitioner has committed two errors, while filling up the application form; firstly despite the fact that the petitioner was in the category of Scheduled Castes, he mentioned as if he was in the category of Scheduled Tribes and secondly, the petitioner had also claimed as Home Guard Trained. Treating the petitioner as Scheduled Tribe as well as in the category of Home Guard Trained, he was allowed to participate in the selection process. There was specific contemplation that at the time of physical test, the



original certificates were required to be produced. However, it is not in dispute that the petitioner had not produced certificate of Scheduled Tribe candidate as well as certificate showing to be Home Guard Trained and, as such, the candidature of the petitioner was rejected on this ground alone. Learned counsel has further argued that almost in identical situation earlier several writ petitions were rejected. He has specifically referred to order dated 12.08.2011 passed in C.W.J.C.No. 3992 of 2011 and the order dated 12.01.2012 passed in C.W.J.C.No. 19808 of 2011, which are Annexures-E and F respectively of the counter affidavit of Respondent no.2.

5. Learned counsel for the State and learned counsel for the Respondent/Selection Board have orally submitted that presently there is no vacancy against Advertisement no.01/2009, regarding which the dispute has been raised.

6. Besides hearing learned counsel for the parties, I have also perused the materials available on record. In paragraph-10 of the counter affidavit, the Respondent/Selection Board has stated that the petitioner appeared in the physical evaluation test, which was held on 21.09.2010. During selection process, the petitioner did not produce Scheduled Tribe Certificate and Home Guard Trained Certificate, which he had mentioned in the application form of the written examination. Thus, the petitioner was disqualified due to mis-match



in Application Form Data with original documents. So, his candidature was rejected by the Board. Of course, learned counsel for the petitioner has placed reliance on a Division Bench order of this Court i.e. Annexure-3 to the reply filed by the petitioner, learned counsel for the petitioner has also placed reliance on statement made in paragraph-6 of the order of the Division Bench in L.P.A. no.1221 of 2012 dated 26.02.2015 i.e. Annexure-3 to the present petition.

7. It is a fact that the petitioner without being in the category of Scheduled Tribe in the application form had declared as a candidate of Scheduled Tribe, whereas he himself accepts in the writ petition that he is in the category of Scheduled Caste. Secondly, a specific stand has been taken in the counter affidavit of Respondent no.2 that besides claiming to be in the category of Scheduled Tribe, the petitioner had also claimed as Home Guard Trained. This statement has not been denied by the petitioner, but learned counsel for the petitioner placing reliance on paragraph-6 of the Division Bench order has argued that on such hyper technical ground, the claim of the petitioner may not be rejected. It is true that before the Division Bench the candidate, though member of MBC had claimed as BC candidate, but in the present case, the petitioner has committed two serious mistakes; firstly without being in the category of Scheduled Tribe, he had claimed as Scheduled Tribe, where he was in the

category of Scheduled Caste and secondly, he has also claimed as Home Guard Trained. Before the Division Bench, it appears that the error was committed by the appellant in the said case, in which he had incorrectly given his category, whereas in the present case besides category of caste he had also given incorrect declaration that he was also Home Guard Trained. In that view of the matter, the petitioner may not get any benefit from the order of the Division Bench i.e. Annexure-3 to the reply.

8. Keeping in view the fact that the petitioner himself has made incorrect declaration, rightly the Respondent/Selection Board has rejected the claim of the petitioner.

9. The writ petition stands dismissed.

(Rakesh Kumar, J)

NKS/-

AFR/NAFR	
CAV DATE	
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