

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10861 of 2015

Chandan Krishan Pandey son of Vinay Kumar Pandey, resident of Village and P.O. Kobil, P.S. Islampur, District - Nalanda

.... Petitioner/s

Versus

1. The Union of India
2. The Director General, Central Industrial Security Force, Block No. 13, CGO Complex, Lodhi Road, New Delhi - 110003
3. The Inspector General (H. Qrs.) office of the C.I.S.F. Block No. 13, CGO Complex, Lodhi Road, New Delhi 110003
4. Deputy Commandant, Appointment, Block No. 13 K. KA. Premises, Lodhi Road, New Delhi - 110003
5. Regional Director, Staff Selection Commission (Central Region) 8A-B, Beli Road, Allahabad 211002

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Atul Kumar Pandey
For the Respondent/s: Mr. S.D SANJAY (ADDL. S.G)
Mr. Rajesh Kumar Verma (C.G.C.)

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 27-01-2016

Petitioner was one of the candidates, who was selected for appointment on the post of a Constable (General Duty) and allocated service under Boarder Security Force. Recruitment was done by the Staff Selection Commission (Central Region), Allahabad. Petitioner joined the Boarder Security Force on 15/07/2013 and started his training. Even before he could complete his training, he tendered resignation voluntarily and the reasons given in the resignation letter is said to be domestic issue, which is evident from reading of Annexure-F, annexed with the counter affidavit of Union of India. The authorities accepted his resignation and notified the same, which is Annexure-G dated 28/09/2013.

What is of significance is that petitioner never offered to take back his

resignation even after acceptance of his resignation or even showed any kind of inclination to take back the decision he had voluntarily taken in terms of Annexure-F.

Story takes another turn when the writ application is filed and a narration is given therein. It seems that some time in the year 2013 itself, the Staff Selection Commission issued yet another result where some allocation was done since recruitment was for the BSF, CISF, CRPF and SSB. It seems that petitioner was shown to be allocated CISF. The real reason for resignation, therefore, seems to be the desire of the petitioner to join CISF and may be, give up the rigors of serving Boarder Security Force. In other words, Annexure-F was a misrepresentation made to the respondent authorities. He claims a right as well as prays for a mandamus upon the respondents to appoint him on the post of a Constable (General Duty) under CISF. The respondent Union of India have negated his claim and is also resisting the prayer by way of filing a detailed counter affidavit.

The preliminary stand taken in the counter affidavit of the Union of India is that a change is permissible provided the constable in question continues in service of the Union of India. The guidelines and the circulars did envisage such changes, therefore, during the course of training if such development took place, a candidate could have given his option or made a request for change in this regard. But since petitioner was no longer in the roll of the Union of India, he did not even complete the training under Boarder Security Force and tendered his voluntary resignation from service, which is for domestic reasons, which have also been acted upon, therefore, the right of the petitioner for any kind of direction for appointment under CISF or may be even to BSF now is an after-thought.

Counsel for the petitioner submits that the petitioner being only a constable and that too a newly recruited one, was not aware of all the procedures and circulars in place and he obviously got tempted by seeing his name in the allocation under CISF, which he felt was a better option than BSF.

So far as allowing the petitioner or giving a direction for his selection and appointment in CISF is concerned, since it is a case of resignation from service, the Court would be doing violence to the circular by giving any kind of indulgence. So far as going back to BSF now, petitioner did tender his voluntary resignation but is sincerely apologetic about the same, as this Court has been made to believe. Let the petitioner express his sincere regret before the authority of the Boarder Security Force. If his offer to go back to BSF can be reconsidered by withdrawing Annexure- G, let it be done. All this will be done provided the petitioner puts in an unequivocal, unconditional application regretting his decision of tendering resignation earlier before the competent authority. Such authority is directed to take sympathetic view within a period of three months and pass an appropriate order.

Writ application is disposed of in terms of the above.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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