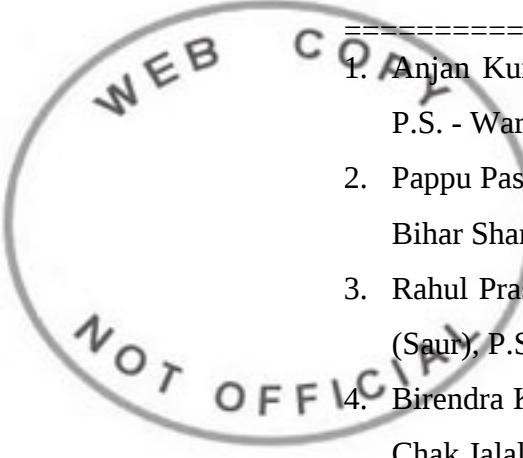


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12001 of 2013

- 
1. Anjan Kumar, son of Bijay Paswan, resident of Village / Mohalla - Kumbhi, P.S. - Warsaliganj, District - Nawada
 2. Pappu Paswan, Son of Rajo Paswan, resident of Village / Mohalla - Haveli, P.S. Bihar Sharif, District - Nalanda
 3. Rahul Prasad, son of Srikant Rawat, resident of Village / Mohalla - Chandipur (Saur), P.S. - Warsaliganj, District - Nawada
 4. Birendra Kumar, son of Late Ram Bali Paswan, resident Of Village / Mohalla - Chak Jalal, P.S. - Bhadaur, District - Patna
 5. Abhishek Kumar, son of Late Kapildeo Mandal, resident of village /Mohalla - Karsop, P.S. - Shambhuganj, District - Banka
 6. Mithilesh Kumar Yadav, son of Suresh Yadav, resident of Village /Mohalla - Chandela, P.S. - Fullydumar, District - Banka
 7. Mani Shankar Diwakar, son of Surendra Kumar Diwakar, resident of Village / Mohalla - Nakatpura, P.S. - Bihar Sharif, District - Nalanda
 8. Prakash Kumar, son of Sri Gupta Singh, resident of Village / Mohalla - Shankar Bigha, P.S. - Konch, District - Gaya
 9. Anjay Raut, son sf Shivan Raut, resident of Village / Mohalla - Amarsingh Bigha, P.S. - Sare, District - Nalanda
 10. Ravi Ranjan Kumar, son of Sri Ramprit Singh, resident of Village - Moniyampur, P.S. - Nagarnausa, District - Nalanda
 11. Md. Irfan Ali, son of Md. Kamruddin Ansari Village - Jagdishpur, P.S. - Jagdishpur, District - Bhojpur

.... Petitioners

Versus

1. The State Of Bihar
2. Principal Secretary, Home (Police) Department, Govt. Of Bihar, Patna
3. Director General Of Police, Bihar, Patna
4. Chairman, Central Selection Board (Constable), Bihar, Patna
5. Central Selection Board, Constable Through Its Secretary, Computer Bhawan, Jawahar Lal Nehru Marg, Patna -23

.... Respondents

=====

Appearance:

For the Petitioner/s : Mr. Pramod Kumar, adv.
For the C.S.B.C. : Mr. Sanjay pandey, adv.
Mr. Binod Kumar Mishra, adv.
Mr. Vivek Anand Amritesh, ADV.
For the State : Mr. Prashant Pratap, G.P.-2
Mr. S.N. Rais, A.C. to G.P.2

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-09-2016

Heard learned counsel for the petitioners, learned
counsel for the Central Selection Board and learned counsel for the
State.

2. This case was earlier dismissed vide order dated
17.02.2014, but the case has been remanded back by the Division
Bench in L.P.A. No.577 of 2014 on the ground that the matter has
not been decided on merit.

3. The present petitioners are claiming selection on the
post of constable in pursuance of the advertisement issued in the
year 2012. They have claimed that they succeeded in the written
test and thereafter fresh admit cards for the physical test were
issued in their favour and they have done very well, but have been
deprived of the selection. It has been submitted that they do not
know their position in the merit list on account of the fact that they
have not been provided the copy of the merit list.

4. The petitioner Nos. 1, 2 4 and 9 have claimed that they belong to the Home Guard category, but at the time of physical test they failed to produce the Home Guard Category Certificate. Petitioner Nos. 3 and 5 have claimed that they belong to the Backward Class category, but at the time of physical test, they also failed to produce the Backward class Category Certificate.

5. On the aforesaid score, learned counsel for the Central Selection Board submits that in absence of those certificates, the petitioner Nos. 1 to 5 and 9 could not have been selected on the post of constable. Whereas, the petitioner No.6 also has claimed to be the member of Extremely backward class, but he also failed to produce the Extremely backward class certificate. *Prima facie* it appears that he cannot be a member of the Extremely Backward class, but in the application he claimed himself to be the member of Extremely Backward class, so his case has also been rejected.

6. So far as the petitioner No.7 and petitioner No.11 are concerned; they have obtained 177 and 147 marks respectively. Petitioner No.7 is the member of Backward category male, having obtained 177 marks and having date of birth 22.09.1992, but cut of date of birth has been fixed as 01.04.1993. Similarly, the petitioner No.11 is the member of E.B.C. category having obtained 147 marks



and having date of birth 20.12.1987. The cut of date of birth has been fixed for EBC category as 15.05.1987. Both the petitioners have qualified in the physical test, but have secured equal marks vis-à-vis the candidates who have been recommended for appointment. In case, two persons get the equal marks, appointment will be given on the basis of seniority in the date of birth as the candidates who have been recommended for appointment have obtained equal marks, but they are senior in age to the present petitioners, so they have been selected and petitioners could not be selected.

7. So far as the petitioner No.8 is concerned, he is a member of general category. The cut of marks has been fixed for general category as 189 marks, whereas he secured only 146 marks and as such, he has not been selected.

8. So far as petitioner No.10 is concerned, who is the member of Backward Class Category. The cut of marks for Backward Class Category has been fixed as 177 marks, whereas he has obtained only 174 marks. On this ground, he could not have been selected.

9. In reply, learned counsel for the petitioners submits that so far the petitioner No.1 to 6 and 9 are concerned, it was a



technical and bona fide mistake having been committed in declaring their class and caste, the mistake should have been ignored for their appointment, but in the advertisement, it has been cautioned that the candidates should fill up the application form with proper identification, in failure to produce the requisite certificates, the candidature would not be considered for appointment. In the present case, the petitioner No.1, 2, 4 and 9 claimed to be Home Guard category. But they did not produce the certificate of the Home Guard at the time of physical test. Equally, the petitioner No. 3, 5 and 6 also failed to produce the certificate, so these petitioners could not have been appointed on account of wrong declaration supplied in the application form. So far as other petitioners are concerned, they could not have been selected on merit for the reasons stated hereinabove.

10. Learned counsel for the Board has submitted that the applications are processed on the basis of declaration made in their application form and when the applications were verified at the time of physical test, the mistakes were identified. He further submits, that administrative mistake even on the part of the Board can be rectified as they were identified at the time of physical test. In such view of the matter, the contention of learned counsel for the

petitioners that the petitioner have been allowed to participate in the written test has also no substance for consideration.

11. For the foregoing reasons, this writ application is dismissed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N./A.
Uploading Date	15.09.2016
Transmission Date	