

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18063 of 2015

- =====
1. Prakash Kumar Ram son of late Parmeshwar Ram, resident of Village- Pattitola, Post- Kothia, Police Station-Bhairabasthan, District - Madhubani
 2. Anil kumar Paswan son of Shri Lakshman Paswan, resident of Village- Paun, PO -Arer Hat, Police Station -Arer Hat, District - Madhubani.
 3. Suman Sagar Paswan son of Shri Bhogendra Paswan, resident of Village- Raiyam, PO - Raiyam, P.S Bhairabasthan, District - Madhubani.

.... Petitioner/s

Versus

1. The Union of India through the Cabinet Secretary, Government of India, New Delhi.
2. Ministry of Home Affairs, Government of India, through the Secretary Home, New Delhi.
3. The Director General, SSB, (Sashtra Seema Bala) Eastern Region-5, R.K. Purma New Delhi.
4. The Director, Recruitment Cell, FHQ SSB, R.K Puram Devi Delhi.
5. The Assistant Director, Recruitment Cell, FHQ, SSB, R.K. Puram New Delhi.
6. The Chairman Recruitment Board, 20th BN SSB Arifpur Paktola, Sitamarhi, Bihar,.
7. The Commandant 20th BN SSB, Arifpur Paktola, Sitamarhi, Bihar.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Binodanand Mishra
For Union of India : Mr. S.D SANJAY (ADDL. SOLICITOR GENERAL)
Mr. Ram Anurag Singh, C G C

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT

Date: 16-02-2016

Heard Mr. Binodanand Mishra, counsel for the petitioners and Mr. S
D Sanjay, Additional Solicitor General for the respondents.

All these petitioners before this Court want a direction for
consideration for appointment on the post of Constable (General Duty) in
Sashastra Seema Bal (in short SSB).

It is their case that they had completed the process of selection at
every stage but for some unknown reasons they have not been appointed, which
compelled them to approach the High Court through this writ application.



When the respondents were directed to file a counter affidavit explaining the reason, an affidavit duly sworn by the Commandant, after due service, has been filed. The respondents have categorically stated in paragraph 9 and 11 of the counter affidavit that what is sought to be conveyed or impression created is not the actual state of affairs. All these petitioners belong to SC category. The last person in the SC category, who came to be appointed, had 46 marks in the written test in order of merit. So far as these petitioners are concerned, Prakash Kumar Ram is supposed to have obtained 39 marks, Anil Kumar Paswan 42 marks and Suman Sagar Paswan 38 marks, meaning thereby that they are miles away from the last candidate selected for appointment.

Learned counsel for the petitioners has not annexed the advertisement as such with the writ application. According to them, the number of people who are required to be called for physical and medical test are supposed to be called on number of vacancies. If these petitioners had been called for the physical and medical test then obviously they were required to be accommodated since there is nothing against them with regard to their unfitness of physical and medical kind. Statement has been made in para 8.

The Court has gone through the statement made in para 8. Petitioners have misunderstood the provision and they have not read the provision in entirety. The number of candidates called for physical and medical fitness are supposed to match the vacancies but those vacancies correspondingly do increase, keeping in mind the average failure rate in the medical examination, on the basis of past experience and data. Effort on the part of the petitioners to prevail upon this Court that every candidate called for physical and medical examination automatically will find a berth seems to be misplaced.

There is no rebuttal with regard to the statement made in para 11 of

the counter affidavit. However, the counsel now takes a plea that they have no basis to rebut because no information was available with regard to performance of candidates and marks obtained by them.

It is an attractive submission but such a position cannot be dispelled lightly because the Court must keep in mind that such a statement has been made on oath and obviously, after due verification of the actual state of affairs and records.

The non-selection of the petitioner, therefore, is because of non-performance and the merit position, based on their performance rather than for any other reason.

In view of the above, no direction as such can be issued to appoint the petitioners on the post.

Writ application is dismissed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

U			
---	--	--	--