

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8676 of 2017

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1. Ramesh Kumar Rai S/o of Late Harendra Prasad Rai, Resident of Village-Chhota Jhuan, P.S.-Avtar Nagar, Dist.-Saran.
2. Ritesh Kumar S/o Sri Bharat Narayan Singh, Resident of Village-Shiv Nagar, P.O.-Bishunpura (Dumaria), P.S.-Koilarwar, Distt.-Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through Director General of Police.
2. The Director General of Police Patna, Bihar,
3. The Inspector General of (Budget/Appeal/Welfare) Police Patna Bihar
4. The Assistant Inspector General (Welfare), Police Head Quarter, Patna.
5. Armourer Constable Mukesh Kumar, S.T.F. Patna.
6. Armourer Constable Amar Kumar, District-Armed Police, Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar Sinha, Sr. Adv.
Mr. Upendra Kumar Singh, Adv.
For the Respondent/s : Mr. Partha Sarthi -GA4
For the respondent No.5 : Mr. Gyanendra Kumar Shukla, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-08-2017

Heard Mr. Devendra Kumar Sinha, learned Senior counsel appearing for the petitioners along with Mr. Upendra Kumar Singh Advocate on record, Mr. Partha Sarthi, G.A.4 for the State and Mr. Gyanendra Kumar Shukla, for the respondent No.5.

The writ petition was filed praying for quashing of the final gradation list of Armourer Constables bearing Memo No.4694 dated 15.10.2015 in so far as it proceeds to allot seniority to 81 candidates who were selected subsequently under the 28th Pre Requisites Course. A copy of the gradation list is on record at Annexure-5 to the writ



petition.

A counter affidavit is filed on behalf of the State and at paragraph 8 of the counter affidavit it has been mentioned that it is on appreciation of the objections raised on the seniority list earlier prepared that it was revised by following the principles so laid down in the Circular of the Deputy Inspector General of Police (Provision) bearing Memo No.1393 dated 30.6.2001 present at Annexure D and a fresh gradation list has been prepared and circulated by letter dated 28.7.2017 of the Inspector General of Police (Budge/Appeal/Welfare) Bihar, Patna. A copy of the gradation list is present at Annexure-E to the counter affidavit. The petitioners feeling aggrieved by the revised gradation list have filed interlocutory application bearing I.A.No.6078 of 2017 to question the order dated 30.6.2001 which is the foundation for preparation of the revised gradation list dated 28.7.2017 vide Annexure- 14 and 15 respectively to the interlocutory application.

According to Mr. Sinha learned Senior counsel for the petitioners, the stipulation present in the letter dated 18.4.2012 issued from the office of the Director General of Police present at Annexure-A is very clear and the Constables who have given their option for being selected in the Armourer cadre are not allowed the benefit of their seniority in the constable cadre. He submits that the decision of the respondents in determining the inter se seniority amongst the



Armourer Constable on the basis of the Circular dated 30.6.2001 would run contrary to such advisory at Annexure-A. He further submits that since the selection to the Armourer cadre is neither by way of a regular appointment or by way of promotion, even the judgments referred to in the circular dated 30.6.2001 would not be relevant for determination of the inter party seniority.

Learned counsel has invited attention of this court to the representation filed by the two petitioners before the Inspector General of Police at Annexure 7 and 8 to the writ petition praying for the rectification of the gradation list and which though was filed at the stage of preparation of the gradation list dated 15.10.2015 but the issues raised therein would equally apply even to the revised gradation list, which according to learned counsel suffers from the same infirmity.

Having heard learned counsel for the parties, I am of the opinion that since according to by Mr. Sinha learned Senior counsel the issues raised to question the revised gradation list as raised by the petitioners herein also finds noted in their representation at Annexures-7 and 8 respectively to the writ petition, I deem it proper to direct the Inspector General of Police (Budget/Appeal/Welfare) the respondent No. 3 to consider the representation of the petitioners as an objection against the final gradation list and dispose of the same in



accordance with law within a period of 3 months from the date of receipt/production of a copy of this order.

It is made clear that this Court while taking note of the submission advanced by Mr. Sinha learned Senior counsel for the petitioners to question the gradation list, has expressed no opinion on the principles adopted by the respondents to determine the inter se seniority and which is left at the discretion of the Inspector General of Police for disposal in accordance with law.

The writ petition is disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.09.2017
Transmission Date	NA

