

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14509 of 2007

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Deepak Kumar Singh, son of Shri Raghubansh Narayan Singh, resident of
At Kharika, P.O. Desari, P.S. Bidupur, District-Vaishali, presently posted as
ASI (M), 4th Battalion, CRPF, Rayagada, Orissa

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs,
New Delhi
2. The Directorate General, CRPF, CGO Complex, Lodhi Road, New
Delhi
3. The Inspector General of Police, Bihar Sector, CRPF, Patna
4. The Dy. Inspector General of Police, CRPF, Patna
5. The Additional Deputy General of Police, Group Centre, CRPF,
Mokamaghat
6. The Comandant, 4th Battalion, CRPF, Rayagada, Orissa

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Abhinav Shrivastava
Mr. Kunal Tiwary

For the Respondent/s : Mr. Anshuman Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

11 11-04-2017 Heard Sri Abhinav Shrivastava, learned counsel for

the petitioner and Sri Anshuman Singh, learned Central
Government Counsel.

The petitioner has invoked writ jurisdiction of this
Court under Article-226 of the Constitution of India for the
following relief::

- (a) Issuance of an order, direction or writ including writ
in the nature of certiorari quashing the order dated
21.05.2007(Annexure-11) passed by the office of
respondent no.2 whereby the representation filed by
the petitioner for correction of his position in the



gradation list has been rejected in the most arbitrary, discriminatory and mechanically manner holding that the seniority assigned to the petitioner is correct and needs no revision.

- (b) Issuance of a direction, order or writ including writ in the nature of mandamus commanding the concerned respondent authorities to assign proper seniority to the petitioner and to correct the position of the petitioner in the gradation list of Assistant Sub-Inspector (Ministerial) { hereinafter referred to as “ASI(M)”}, CRPF as on 01.01.2006 treating the petitioner to be appointed in service with effect from the year 1998 and the same date from which other similarly situated persons have been appointed in pursuance of the same advertisement and examination held in November,1997 in pursuance of which the petitioner has also been appointed.
- (c) Any other relief/reliefs as may be found appropriate and fit under the present facts and circumstances of the case”

As pleaded in the writ petition, the petitioner pursuant to an advertisement issued in the year 1997 applied for the post of Assistant Sub Inspector (Ministerial) {hereinafter referred to as “ASI (M)”} in the Central Reserve Police Force (hereinafter referred to as “CRPF”). In the said examination, he succeeded and he was offered appointment letter, which was



subject to the result of the Medical Board. Before the Medical Board constituted by CRPF, the petitioner was found unfit. Since the petitioner felt that he was incorrectly declared unfit, without any delay firstly he got him examined by the doctor of Patna Medical College Hospital, Patna and after examination by the doctor of Patna Medical College Hospital, it was found that he was physically fit. Thereafter, the petitioner filed a writ petition before this Court vide C.W.J.C.No.10808 of 1999. In the said writ petition, a direction was issued to constitute a Medical Board for examination of the petitioner and in compliance with the order of the writ court dated 08.05.2000, afresh Medical Board of three Medical Officers was constituted by the CRPF for re-examining the petitioner. On 08.09.2000, the petitioner was found medically fit and, thereafter, the petitioner was once again sent office order for appointment subject to other certain conditions. Thereafter, the petitioner was appointed and joined on 23.10.2000 as ASI (M). He was, thereafter, confirmed vide office order, which was issued in the month of February, 2001(Annexure-4 to the writ petition). It was indicated that the petitioner was appointed as Assistant Sub-Inspector (M) with effect from 23.10.2000.

The case of the petitioner is that in the gradation list, the petitioner's name was incorporated in the bottom.



Thereafter, he filed an application and finally the Commandant, 4th Battalion, CRPF recommended for correction of seniority list in respect of the petitioner vide Annexure-10 to the writ petition. The said recommendation indicated that even about 150 persons, who were appointed subsequent to the petitioner, were put above the petitioner in the gradation list. After the said recommendation, an office order was issued from the office of the Director General, CRPF, New Delhi dated 21st May, 2007, whereby the claim of the petitioner for keeping his name at proper place in the seniority list/gradation list was rejected, which has been assailed in the present writ petition.

It was submitted by Sri Abhinav Srivastava, learned counsel for the petitioner that the petitioner's position in the seniority list was required to be restored in view of his selection pursuant to advertisement of 1997. He submits that first offer appointment letter was issued to the petitioner in the year 1998 but without any fault on the part of the petitioner, the petitioner was denied appointment on the plea that he was medically unfit. However, this issue was finally set at rest by constitution of Medical Board by the CRPF, consisting of three Medical Officers, which was done in compliance with the order of the writ court passed in C.W.J.C.No.10808 of 1999. According to



learned counsel for the petitioner, the said seniority list may be corrected keeping his date of appointment on the basis of first offered letter for appointment issued in the year 1998. However, he has agreed to the proposition that since the petitioner was finally appointed after the recommendation of re-constituted Medical Board on 23.10.2000 and treating his date of appointment as 23.10.2000, which has been approved vide Annexure-4 to the writ petition, his position in the seniority/gradation list may be directed to be restored at appropriate place.

In this case, a counter affidavit has been filed on behalf of Respondents, duly sworn by the Dy .Inspector General of Police (Admn). On perusal of the counter affidavit, prima facie the Court was of the opinion that a contemptuous stand was taken in the counter affidavit. In sum and substance, in the counter affidavit, Respondents had tried to assail the action taken by this Court in earlier writ petition. Once the Respondents, in compliance with the order of the writ court passed in C.W.J.C.No.10808 of 1999, had re-constituted Medical Board and after recommendation of the Medical Board consisting of three Medical Officers, the petitioner was given appointment letter, there was no reason to state anything in the counter affidavit against observation/decision of this Court in earlier proceeding. It



was beyond imagination for swearing such affidavit deprecating the earlier decision by this Court. Primarily, the Court was intending to take appropriate action against the person, who had sworn affidavit. However, the Court is refraining to take such action with a view to protect the interest of the petitioner as well as in view of submission made by Sri Anshuman Singh, learned Central Government Counsel that the affidavit, which has been filed, was virtually reiteration of the earlier counter affidavit which, one way or the other, was earlier not filed and, as such, the person had sworn this affidavit without any intention to disobey the order of this Court. On perusal of Annexure-11, which has been challenged in the present writ petition, the Court is satisfied that it is completely non-speaking order, rather it was passed without application of mind ignoring the recommendation i.e. Annexure-10 to the writ petition, which was made by the Commandant , 4th Battalion, CRPF.

Accordingly, the order impugned i.e. Annexure-11 to the writ petition is hereby set aside and the matter is remitted back to the Director General , CRPF to re-examine the matter and pass appropriate order in accordance with law taking notice of the recommendation i.e. Annexure-10 to the writ petition and also date of appointment of the petitioner dated 23.10.2000. All



formalities must be completed within a period of three months from the date of receipt/production of a copy of this order.

With above observation/direction, the writ petition is allowed with all consequential benefits.

(Rakesh Kumar, J)

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