

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12271 of 2012

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Santosh Kumar Singh, Son Of Late Bhirgu Nath Singh, Resident of Village & P.O.
Rajpur, Via- Raghunathpur, District- Siwan.

.... Petitioner

Versus

1. The Union of India.
2. D.I.G., C.R.P.F. Muzaffarpur, District- Muzaffarpur.
3. D.I.G., C.R.P.F. Mokamaghat, District- Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sharma, Adv.

For the Union of India : Mr. Anshuman Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 22-11-2017

Heard learned counsel for the petitioner and learned
counsel for the Union of India.

2. An advertisement was published for appointment of G.D. constables for the C.R.P.F. and other para-military forces. The petitioner appeared and finally he was handed over the appointment letter dated 28.02.2001. In the appointment letter, it has been mentioned in Clause-(क) that x-ray examination of the petitioner was not conducted and after his joining the x-ray examination will be conducted if the x-ray report comes adverse to the petitioner, then his candidature will be treated to have been rejected. After joining, the petitioner was put to x-ray examination, abnormality was found



in the x-ray report, whereupon the petitioner was not allowed to continue the work and vide letter dated 28.03.2001 he was terminated from the service. The petitioner instead of going for an medical appeal approached this Court in C.W.J.C. No. 5864 of 2002. This Court vide order dated 12.02.2004 directed the petitioner to file an appeal against the medical report, which the petitioner filed, whereupon a fresh Medical Appellate Board was constituted and the petitioner was again examined by the said Medical Board and he was declared successful in the medical test. In pursuance thereof, the office order dated 09.06.2004 was issued in favour of the petitioner, thereby he was brought back to the service and it was made clear that “he will be entitled for pay and allowance from the date of his appointment as CT/GT i.e. the date from which he joins duty and signs CRPF Form No. I”. In pursuance of this order, the office order dated 29.06.2004 was issued, there also it was made clear that “he will be entitled for pay and allowances from the date of his appointment as CT/GT i.e. the date from which he joins duty and signs (FN).

3. The grievance of the petitioner is that he should be treated to be in service from the date of his initial appointment because all the transactions that have been taken place will be



deemed to be in continuation and there was no fault on his part, in such circumstance, he cannot be deprived of the benefit of notional seniority as it will cause a great prejudice to the petitioner.

4. In support of the submission, learned counsel for the petitioner has placed reliance on the order passed in **C.W.J.C. No.1369 of 1999 dated 27.04.2000 (Nasim Arra and another vs. State of Bihar and Others)**. As per the petitioner, identical issue was involved in the aforesaid decision. He also placed reliance on the decision of this Court in the case of **Arun Kumar Singh vs. The State of Bihar and Ors.** reported in **2003(4) PLJR, page-95**, on strength of aforesaid decisions, learned counsel for the petitioner submits that the petitioner should be given the benefit of seniority.

5. Whereas, learned counsel for the Union of India submits that the appointment letter itself made it clear that after his joining, x-ray examination will be conducted, if the x-ray report goes adverse to the petitioner, then his candidature will be treated to have been rejected, after his joining the x-ray examination was conducted and report came adverse to the petitioner, so he was terminated from service, but the Medical Appellate Board found everything okayed and thereafter the appointment order was issued, the appointment order itself makes it clear that he will be entitled to pay and



allowances from the date of his appointment i.e. the date on which he joins duty. So, right from the beginning the petitioner was knowing his status inasmuch as this writ petition suffers from delay and laches on account of the fact that finally the petitioner was selected on 29.06.2004 and he approached this Court after eight years and there is no explanation at all whatsoever in the writ application. He further submits that if the person remains slumber and remains sleeping the Court cannot come forward and support such persons as delay denies the right for claim.

6. Learned counsel for the Union of India further submits if the seniority will be allowed, it will affect large number of persons as after him large number of persons have been inducted on several occasions, if this Court would grant seniority, it will affect all the persons inducted later on. When the issue of seniority has been settled long ago, the same should not be unsettled after eight years.

7. Having considered the rival contentions of the parties, in the present case, admittedly initially the petitioner was appointed in the year 2001 and thereafter terminated from the service on the ground of abnormality shown in x-ray report and when the Medical Appellate Board found him medically fit again the petitioner was appointed in the year 2012, in the meantime, large number of



constables have been selected. If this Court grants the benefit of seniority to the petitioner, it will create chain of problems reason is that number of persons thereafter have been appointed and seniority has already been settled, after eight years it should not be allowed to unsettle.

8. In such view of the matter, this Court does not find any merit in this writ application. Accordingly, this writ application is dismissed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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