

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12756 of 2007

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Narendra Prasad, Son of Late Jugan Rai, Resident of Village – Saristabad
(Poorwari Tola), Police Station- Gardanibagh, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through Home Secretary Government of Bihar, Old Secretariat, Patna.
2. Director General of Police, Bihar, Government of Bihar, Old Secretariat, Patna.
3. Inspector General of Police (Personnel), Bihar, Government of Bihar, Old Secretariat, Patna.
4. Deputy Inspector General of Police, Government of Bihar, Kosi Range.
5. Senior Superintendent of Police, District Saharsa.

.... Respondents

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Appearance :

For the Petitioner	: Mr. Madhuresh Prasad, Advocate. Mr. Ravi Verma, Advocate. Mr. Ranjan Kumar, Advocate.
For the Respondents	: Mr. (AAG3)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 21-02-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner seeks quashing of the order dated
17.04.2007 as contained in Memo No. 2082/13-1-102-2000
(Annexure-13) by which representation of the petitioner in pursuance
of the order passed in CWJC No. 5351 of 1998 has been rejected.

3. The facts which are relevant for disposal of this writ
petition in short are that the petitioner in pursuance of an
advertisement applied for appointment on the post of constable in the
District Saharsa. The petitioner after coming out successfully through



different tests was appointed on 17.10.1992 on the post of Constable in the District Sahrsa. The petitioner also completed his training, but the petitioner was served a notice in the year 1995 that some illegalities were committed for appointment on the post of constable and the petitioner and others are the beneficiaries of such illegalities in pursuance thereof the petitioner was appointed. After considering the show cause, the services of the petitioner were terminated on 30.12.1995 vide Order No. 168 of 1995 (Annexure-1).

4. The petitioner moved before this Court in CWJC No. 495/1996 against the order of his dismissal and this Court vide order dated 10.12.1996 set aside the order of dismissal on the ground that in the show cause notice asked from the petitioner, the enquiry report was not served and, therefore the petitioner could not give his reply. The matter was remitted to the disciplinary authority. The petitioner was reinstated in his service, but again notice was given to him that the height of the petitioner is 160.5 cm and for appointment on the post of constable minimum height of a candidate should be 165 cm. The petitioner filed show cause and again he was dismissed from the service. The petitioner, thereafter, filed CWJC No. 5351 of 1998 (Annexure-6) against the order of his termination. This Court vide order dated 22.09.1999 did not interfere with the order of the dismissal of the petitioner, but at the same time directed the petitioner



to file representation in view of Letter No. 2339 dated 05.05.1997 issued by the Assistant to Inspector General (Personnel), Bihar, Patna by which the authority got power to relax the minimum requisites with regard to height and on such Md. Manzoor Alam and Md. Ali were appointed by relaxing the minimum requisites with regard to height and the authority was directed to pass appropriate order on the representation of the petitioner.

5. The petitioner in pursuance of the aforesaid order dated 22.09.1999 in CWJC No. 5351 of 1998, filed representation before the Director General of Police. The Director General of Police after considering the representation of the petitioner found that in case of the petitioner the minimum qualification with regard to the height cannot be relaxed and dismissed the representation of the petitioner vide order as contained in Memo No. 218 dated 12.01.2000(Annexure-8). The petitioner again filed CWJC No. 2721 of 2000 against the order as contained in Memo No. 218 dated 12th January, 2000 (Annexure-8) and this Court vide order dated 10.07.2006 in CWJC No. 2721 of 2000 (Annexure-10) again directed the authority to consider the representation of the petitioner for relaxation of age in accordance with law. The petitioner again filed representation and vide order as contained in Memo No. 2082 dated 17.04.2007 (Annexure-13) in pursuance of the order dated 10.07.2006



for relaxation of the age. When the authority did not dispose of the representation of the petitioner, the petitioner filed MJC and during pendency of the MJC the order under challenge was issued stating therein that vide Notification No. 4(b)102/95-8256 dated 01.09.2001. Rule 663 of Police Manual 1978 providing for giving relaxation in the minimum requisites of height was taken away and there is no provision for providing relaxation in the minimum requisites.

6. Learned counsel for the petitioner submits that the petitioner was appointed on the post of constable when the authority found him suitable. The performance of the petitioner was excellent as he was awarded for catching the notorious criminal. This Court has directed the authority to consider the representation of the petitioner for relaxation of his age in view of Letter No. 2339 dated 05.05.1997, but the Director General of Police submitted that the aforesaid letter has withdrawn and he has got no authority to relax the minimum requisites with regard to height. The petitioner was discriminated. The petitioner made specific averment that the case of the petitioner was not considered in the light of the aforesaid facts that two persons namely Md. Manzoor Ali and Md. Ali were appointed by relaxing the minimum requisites with regard to height.

7. According to the respondents the minimum height for appointment on the post of constable is fixed as 165 cm. and the



height of the petitioner is 160.5 cm. or somewhere it has come to 161 cm. At the time of selection of the petitioner the height of the petitioner was fraudulently measured and it was stated that in the selection process the height of the petitioner was 166 cm. On the complaint made by different persons, a thorough enquiry was held with regard to illegality and irregularity committed during the procedure of appointment on the post of constable in the District of Saharsa and a report was submitted. It was found that many persons were appointed who did not have minimum requisites for appointment on the post of constable. The petitioner is beneficiary of such fraudulent measurement of his height and therefore, in my view it cannot be said that the petitioner is not at fault in measurement of his height. After thorough enquiry, the services of the petitioner were terminated on account of the fact that the petitioner was not eligible for appointment on the post of constable. In the case of Md. Manzoor Alam and Md. Ali, of course, the Director General of Police relaxed the age, but under what circumstances the minimum qualification for those two persons was relaxed is not stated in the writ petition and, therefore, the petitioner cannot be claimed to be discriminated on the ground that the authority did not consider the relaxation of his age for appointment on the post. The authority under such circumstances was given power to relax the rule, but the authority cannot relax the



minimum qualification in each and every case and therefore I find no illegality in the order rejecting the representation of the petitioner.

8. Having considered the facts aforesaid, I find no merit in this writ petition. Accordingly, the same is dismissed but however no order as to costs.

(Prabhat Kumar Jha, J.)

KKSINHA/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.03.2017
Transmission Date	

