

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.2765 of 2016**

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Kundan Kumar, S/o Sri Birendra Prasad, r/o- Mohalla- Shivaji Colony, P.O. Ramchandrapur, P.S.- Laheri, Distt.- Nalanda.

.... .... Petitioner

Versus

1. The Union of India, through Secretary, Department of Home, Govt. of India at New Delhi,
2. Secretary, Department of Home Govt. of India at New Delhi.
3. Chairman, Staff Selection Commission (CR), 8, A.B. Bailey Road, Allahabad,
4. The Director rote, C.R.P.F., New Delhi.
5. The Dy. Inspector General Group Centre, Central Reserve Police Force, Amethi (U.P.)
6. The Director, Staff Selection Commission, Allahabad, Board, Allahabad.
7. Asst. Commandent, Central Reserve Police Force, Amethi, (U.P.).

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Amresh Kumar Sinha, Adv.  
For the Respondent/s : Mr. S.D Sanjay, Addl. Solicitor General  
Mr. Rajesh Kumar Verma, CGC

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 11-09-2017**

Heard learned counsel for the parties.

The petitioner is aggrieved by the order dated 26.3.2015 passed by the Assistant Commandant, Central Reserve Police Force by which offer of appointment of the petitioner has been cancelled on failure of the petitioner to report for joining as per the directions contained in the letter dated 12.8.2014 and 22.9.2014.

The facts of the case briefly stated is that the petitioner responded to the advertisement for appointment to the post of Constables (GD) in CPOs and Rifleman (GD) in Assam Rifles 2012 by filing his application, the acknowledgement of which is present at



Annexure 1. The petitioner went through the selection test and a list of the successful candidates was published, a copy of which is present at Annexures 6 and 7 and contained the name of the petitioner. The results were published some time in the year 2012 and according to the petitioner, thereafter he kept enquiring about the follow up action but was told that he would be informed through post. According to the petitioner, he kept enquiring from the local Post Office at Bihar Sharif but the only letter that he received was the communication dated 26.3.2015, impugned at Annexure 8, whereby he was informed that since he failed to give his joining in compliance of the letter dated 12.8.2014 and 22.9.2014, his offer of appointment has been cancelled. A copy of the letter dated 26.3.2015 of the Assistant Commandant for Deputy Inspector General of Police is impugned at Annexure 8. The petitioner immediately represented with an application at Annexure 9 informing the Deputy Inspector General of Police through letter dated 15.4.2015 that neither the letter dated 12.8.2014 nor the letter dated 22.9.2014 was received by him although he kept making enquiry from the local Post Office. The representation of the petitioner placed at Annexure 9 was responded to by the Assistant Commandant for Deputy Inspector General of Police through letter dated 6<sup>th</sup> July, 2015, whereby he was informed that since he failed to report within time, no further action would be taken on his representation. It is thereafter that



the petitioner has approached this Court.

While it is the argument of Mr. Amresh Kumar Sinha, learned counsel appearing on behalf of the petitioner, that it is solely on account of failure of the Postal Department to deliver the letter in question which has prejudiced the case of the petitioner, the argument has been contested by Mr. S.D.Sanjay, learned Addl. Solicitor General, who submits that the statement of the petitioner is not acceptable because while he has received all other letters addressed to him, it is only the letter containing the offer of appointment which he claims not to have received. According to Mr. Sanjay, it is laches on the part of the petitioner in not being vigilant over the cause which has led to the situation so much so that even after rejection of his request vide letter dated 26.3.2015 and 6.7.2015 impugned at Annexures 8 and 10 to the writ petition it has taken more than six months for the petitioner to approach this Court.

In compliance of the order of this Court that a supplementary counter affidavit has been filed enclosing a list of candidates which was uploaded on website on 17.10.2012 as manifest from Annexure R/10 thereto.

In normal circumstance this matter did not require any further persuasion considering the sequence of events but it is the very document which has been relied upon by the respondents at Annexure



R/10 which gives a cause of action to the petitioner. While it is the admission of the respondents that the result was published on the website in the year 2012, it is also their acceptance at paragraph 6 of the supplementary counter affidavit that the dossier of the petitioner was sent on 27.6.2014, that is two years thereafter. Meaning thereby that the petitioner is right when he claims that he kept enquiring as to the follow up action following the declaration of result in the year 2012 but did not receive any intimation because the dossier was sent two years thereafter on 27.6.2014 which led to issuance of offer of appointment.

The matter does not remain at such stage rather it is also admission of the respondents that while the first letter containing the offer of appointment dated 12.8.2014 never returned back and according to the petitioner, he never received the same, in so far as the second offer of appointment as contained in the letter dated 22.9.2014 is concerned, it is the admission of the respondents that it returned with a note "addressee not found". In fact the very act of the respondents in issuing a second offer of appointment would confirm that even they were satisfied that the first offer of appointment dated 12.8.2014 may have got lost in transit and may not have reached the petitioner and that is the reason for them to send second offer of appointment on 22.9.2014 which returned unserved.



In my opinion, where the respondents themselves have issued the offer of appointment after a gap of two years since the publication of result in the year 2012, they cannot charge the petitioner of a delayed act, to take away the right vested in him for appointment.

Another relevant aspect of the matter is that the application form which was to be submitted online as manifest from Annexure 1, contains a note for the applicant, to check their mobile or SMS messages for information. Meaning thereby, the respondents were themselves using the mobile communication for intimation but when it came to inform the candidate about his appointment, no such steps were taken by the respondent authorities to inform him either through e-mail or through SMS rather they conveniently rested on the worthiness of the Postal Department to deliver the same ignoring the vagaries facing the delivery system. Certainly a lapse by the Postal Department cannot be a reason to deny the genuine claim of the petitioner and specially where no laches can be attributed on him and it is the specific stand of the petitioner that right since the publication of result in the year 2012, he kept enquiring about the follow up action not only from the respondents who informed that he would be intimated by Post but also from local Post Office. In such circumstances, certainly the petitioner's claim cannot be rejected on



alleged delayed action because no sooner did the petitioner receive the letter of cancellation of the offer of appointment dated 12.8.2014 and 22.9.2014 that he immediately informed the Deputy Inspector General of Police on 15.4.2015 vide Annexure 9 and the discussion present in the letters that followed in intra departmental correspondences copies of which is placed on record vide Annexures R/5 and R/6 to the supplementary counter affidavit is sufficient indication that matter was discussed and the respondents also do admit that the applicants could have been informed on his mobile but to maintain confidentiality of the selection process that this mode was not adopted.

In my opinion, where the respondents themselves have required the applicants to check their mobile as to their registration of their application form as manifest from Annexure 1 considering that the results were published and uploaded on the website in the year 2012 but appointment letters were issued two years thereafter in 2014 they should have communicated the selected candidates either through e-mail or through their registered mobile and which would have secured the right of the selected candidates without disturbing confidentiality. In my opinion the petitioner has been wronged and the wrong needs to be corrected. The petitioner having succeeded through the rigors of the selection test, simply because the Postal Department



did not ensure delivery of the offer of appointment to him, the right so vested in him cannot be allowed to be taken away in a routine fashion as done in the present case.

In the peculiar nature of contest this Court would direct the respondent no.5 to take appropriate steps for issuing fresh offer of appointment to the petitioner within a period of six weeks from the date of receipt/ production of a copy of this order.

The writ petition is allowed.

**(Jyoti Saran, J)**

Surendra/-

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