

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 385 of 2015

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Vinay Kumar. Son of Shree Dudhnath Roy, Resident of Village + P.O.-
Babura, P.S.- Barahara, District - Bhojpur.

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs,
New Delhi.
2. The Secretary, Staff Election Commission, New Delhi.
3. The Deputy Director [Exam] Staff Selections Commission [C.R.]
Allahabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ojha

For the Respondent/s : Mr. Sanjay Kumar (ASG)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 27-01-2017

Heard Sri Sanjay Kumar Ojha, learned counsel for the
petitioner and Sri Sanjay Kumar, learned Assistant Solicitor General.

2. The petitioner, who participated in selection process
for the post of Constable in Central Arms Police Force Examination,
2013 (hereinafter referred to as the 'CAPFs') and Rifleman (GD) in
Assam Rifles, 2013 conducted by the Staff Selection Commission
(C.R.) Allahabad, has prayed for directing the respondents not to
change the category of the petitioner and consider his candidature as
O.B.C. candidate and since, he has obtained much higher marks in
O.B.C. category, he may be declared successful and select him as
"Constable".



3. Learned counsel for the petitioner submits that pursuant to advertisement, he applied for the post of Constable in the category of O.B.C. and thereafter, Admit Card (**Annexure - 1**) was issued in his favour, in which, he was treated as O.B.C. candidate. Even in **Annexure - 2** i.e. Admit Card for Medical Examination, which was issued after initial selection test, the petitioner, as O.B.C. candidate, was directed to appear before the Medical Board. However, while final selection list was prepared, his name was mentioned against General category. It has been argued that since petitioner had claimed as O.B.C. candidate and regularly he was treated by the authority concerned as O.B.C., at the time of final selection, there was no reason for changing the category of petitioner from O.B.C. to General category and as such, he makes a prayer for allowing the present writ petition.

4. In this case, a detailed counter affidavit has been filed on behalf of respondent/Union of India. In the counter affidavit, a stand has been taken that for treating a candidate against reserved category, there were certain necessary formalities to be adopted. It has been indicated that before the Medical Board and at the time of verification of certificates, candidates, claiming reserved category, were required to produce certificates to show that he/she was



belonging to said category. It has been indicated that since the petitioner had not produced required certificate at the time of verification, he was obviously not given the benefit of O.B.C. category and in view of instructions issued by the Government of India, he was shifted to the General category. The petitioner had obtained 65 marks, however; in the General category, none of the candidates, having lesser marks than the petitioner, was shown selected and this was the reason that petitioner was not shown selected.

5. Sri Sanjay Kumar, learned Assistant Solicitor General, by way of referring to fact disclosed in the counter affidavit particularly statement made in paragraph nos. 25 & 26 of the counter affidavit, submits that petitioner himself with the writ petition has brought on record a certificate, issued on 21-02-2009 (**Annexure - 4**), which was produced at the time of Medical Examination on 29-01-2014. The certificate i.e. **Annexure - 4** to the writ petition, shows that it was issued on 21-02-2009. It has been argued by Sri Sanjay Kumar that persons claiming O.B.C. category were required to produce Creamy Layer Certificate and Creamy Layer Certificate was to be produced issued not beyond three years prior to the cut-off-date. According to Sri Kumar, the certificate,



which has been brought on record by the petitioner, itself indicates that such certificate was not required to be taken note of and as such, it was rightly rejected. He has also placed reliance on a judgment of this Court passed in C.W.J.C. No. 4477 of 2013 (Vishal Kumar -vs.-The Union of India & Ors.) dated 01-12-2015 (**Annexure - E** to the counter affidavit). He submits that the issue, which is being raised in the present writ petition, has already been set at rest.

6. Besides hearing learned counsel for the parties, I have also perused the materials on record. Keeping in view the fact that issue, which is being raised by the petitioner, has already been set at rest by this Court, there is no reason to pass a different order. Accordingly, I do not find any ground to pass favourable order.

7. The writ petition stands dismissed.

(Rakesh Kumar, J.)

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AFR/NAFR	NAFR
CAV DATE	N/A
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