

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6530 of 2012

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Kumar Abhishek Tiwari Son Of Shri Krishna Tiwari Resident Of Village-
Hussepur, Police Station-Amnour, District-Saran

.... Petitioner

Versus

1. The Union Of India Through The Secretary, Ministry Of Home Affairs,
Government Of India, New Delhi
2. The Director, C.R.P.F., Directorate, Central Reserve Police Force, C.G.O.
Complex, New Delhi
3. The Inspector General Of Police, Bihar Sector, Central Reserve Police Force,
Patna (Bihar)
4. The Deputy Inspector General Of Police, Group Centre, C.R.P.F., Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Abhimanyu Sharma, Advocate
Mr. Sanjay Kumar Singh, Advocate
For the Respondent/s : None.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 08-01-2018

Heard learned counsel for the petitioner. No one
appears on behalf of the Union of India.

2. The petitioner has moved this Court under
Article 226 of the Constitution of India for the following
reliefs :-

I. To quash letter no. R-11-1/2011-12-EC-6
dated 11.01.2012 and office order (Annexure-1)
issued under the signature of DIGP GC
C.R.P.F.MZR communicating the petitioner that
since he was lower in final merit list of
unreserved category therefore, he was not eligible
for appointment as Constable/GD.

II. To command and direct the respondents to



appoint the petitioner as Constable who was found within available vacancy on the basis of written examination and subsequently declared fit in medical examination.

III. To command and direct the respondents to produce before this Hon'ble Court the merit list of the candidates selected in written test and the final selection list of the appointed candidates and also the answer books of the petitioner's written test conducted by the respondents during the process of selection.

IV. To declare that the reservation in favour of the candidates belonging to Naxal affected area of the State of Bihar and also in excess of 50% of the total vacancy is highly arbitrary and violative of Article 16 of the Constitution of India.

3. Learned counsel for the petitioner has raised two fold arguments before this Court. His first submission is based on Annexure-A to the supplementary counter affidavit filed on behalf of the respondents, whereunder the Ministry of Home Affairs, Government of India has taken a decision that 20% vacancies in BGFs (Border Guarding Forces) and 40% vacancies in Forces other than BGFs will be allotted to militancy affected areas to be notified by Government from time to time.



4. Learned counsel for the petitioner submits that in the advertisement as contained in Annexure-1 to the writ application, number of posts notified for the General category in non-Naxal affected areas in the State of Bihar was only 383 whereas 522 seats were reserved for the candidates belonging to the Naxal affected areas in the State of Bihar which is more than 50% reservation and is in contravention of the Article 16 of the Constitution of India.

5. His next submission is that the district-wise roster for reservation has been prepared whereas the entire appointment should have been taken under one unit. Learned counsel has further submitted that the reservation provided for the candidates belonging to Naxal affected areas is in conflict with the government's own decision dated 01.04.2010, as contained in Annexure-A to the supplementary counter affidavit.

6. Even though no one appears for the Union of India, this Court has gone through the counter affidavit and the supplementary counter affidavit filed on behalf of the Union of India. In paragraph-7 of the supplementary counter affidavit, it is stated that the petitioner, who himself admits that he does not come from Naxal affected areas, fell in the



general category of candidates of non-Naxal affected district. The last candidate which has been offered appointment under this category had secured 44 marks and was placed at serial no. 703 of the merit list, whereas this petitioner was placed at serial no. 725 having secured only 43 marks.

7. It is further pointed out that the petitioner had earlier moved this Court in CWJC No. 21451/2011 for the same relief. This Court passed an order dated 07.12.2011 in CWJC No. 21451/2011 which is Annexure-3 to the writ application in the following terms:

“To satisfy the conscience of the petitioner, let him file an application before the DIG, CRPF (respondent no. 2) with regard to his merit position as well as the marks which he has got vis-à-vis the marks the last man so appointed got. In case such an application is filed, respondent No. 2, the DIG, would be obliged to inform the petitioner of the said status within four weeks. Writ is disposed of with direction as above.”

8. Pursuant to the said order of this Court, the petitioner was communicated the office order dated 11th January, 2002 as contained in Annexure-4 to the writ application.

CONSIDERATION

9. This Court sitting in its writ jurisdiction which



is in the nature of extraordinary jurisdiction of this Court would not interfere with the impugned order, as contained in Annexure-4, for a simple reason that the petitioner cannot be allowed to challenge the advertisement (Annexure-1 to the writ application). At this stage, it is apparent that he had never raised any objection to the number of seats allotted for the Naxal affected areas and had participated in the selection process; it is not disputed that the selection process had started in the year 2010 itself which has already come to an end and the last candidate appointed from the category to which the present petitioner belongs to, had secured more marks than the petitioner and was better placed than him in the merit list. There is no complaint of discrimination against the petitioner.

10. Learned counsel for the petitioner at this stage submits that the last candidate selected for the Naxal affected area in the general category had secured 37 marks only. This submission of the petitioner is not going to help him because from advertisement itself it is evident that for Naxal affected areas/district in the State of Bihar and Jharkhand, the vacancies were separately bifurcated and notified and the petitioner who did not belong to the Naxal



affected area and had declared so in his application form was not required to be considered against the vacancies notified for the Naxal affected districts. The petitioner had come earlier also to this Court and the challenge thrown to the selection process did not succeed in the earlier round of proceeding. The recruitment has been apparently concluded long back and appointments have already been made, therefore, those are the additional grounds not to interfere with the selection made pursuant to the advertisement as contained in Annexure-1.

11. This Writ Application has no merit. It is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CA V DATE	NA
Uploading Date	10.01.2018
Transmission Date	NA

