

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16274 of 2011

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VINITA KUMARI D/O PAWAN KUMAR PATEL RESIDENT OF
VILLAGE- KRISHNAPUR, P.S.- HILSA, DISTRICT- NALANDA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE DIRECTOR GENERAL OF POLICE, BIHAR, PATNA
3. THE CHAIRMAN, CENTRAL SELECTION COUNCIL, BIHAR, PATNA
4. THE INSECTOR GENERAL OF POLICE, PATNA RANGE, PATNA
5. THE DEPUTY INSPECTOR GENERAL OF POLICE, CENTRAL RANGE,
PATNA
6. THE SENIOR SUPERINTENDENT OF POLICE, PATNA

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Ravi Ranjan, AC to SC 22

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 22-11-2018

Heard learned Counsel for the petitioner and the
learned Counsel for the respondent State.

2. The petitioner's appointment as constable has been cancelled and she has been terminated on the ground that she had participated in the selection process as a home guard category candidate.

3. Counsel for the petitioner has submitted that the factual matrix of the petitioner being a non home guard and applying for consideration in the selection process as a home guard category is not disputed. He submits that in the application format the petitioner due to mistake marked the



option for home guard category, although she was never in the home guard before applying for the selection process. It is submitted that the petitioner by virtue of applying as home guard has not availed of any benefit as only benefit available to a home guard category candidate was relaxation of five years in the age prescribed for selection. It is submitted that all other scrutiny in the physical criteria and written test were common and similar. It is also pointed out that even when the petitioner was called for physical test when she had appeared before the authorities and at that stage she had not produced any document showing her to be a home guard candidate. In view of the aforesaid, it is submitted that the impugned order terminating her services on the ground of her being a non home guard category candidate is unsustainable. Counsel for the petitioner has also relied upon the case of *Avtar Singh vs. Union of India 2016(8) SCC 471*. It is submitted that like the petitioner's case the suppression in the case of *Avtar Singh (supra)* was of trivial nature and the Apex Court in the said judgment has held that some leniency should be shown to such candidate.

4. Counsel for the respondent, however, submits that the petitioner had applied in the category of home guard



knowing fully well that she was a non home guard category candidate. This is a total lack of bonafide. It is submitted that even in spite of the fact that she was required to present herself with documents in support of home guard category at the physical and written test she has neither gone with the documents nor established her bonafide by informing the selection authority that due to mistake she had filled up the application form as a home guard category candidate.

5. In view of the *mala fide* attitude of the petitioner during the selection process and the admitted position that she is a non home guard category candidate she is not entitled to any leniency in the matter. This Court has gone through the judgment of the Apex Court relied upon by the Counsel for the petitioner. The Apex Court in the case of ***Avtar Singh (supra)*** has considered the nature of suppression, which even if disclosed would not have rendered the incumbent unfit for the post in question. That is not the position in the instant case. The suppression in the instant cases changes the candidature of the petitioner itself inasmuch as the parameter for selection under non home guard category (petitioner's category) is totally different than which is prescribed for home guard category. Though the petitioner has not availed of any



benefit by not putting correct category but the misrepresentation has the affect of depriving someone who could have otherwise taken the benefit of home guard category.

6. The petitioner’s candidature, therefore, has rightly been found to be *mala fide* and this Court does not find any reason to interfere with the order of termination dated 29.4.2011.

7. The writ petition stands dismissed.

(Madhuresh Prasad, J.)

SNkumar/-

AFR/NAFR	AFR
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