

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15473 of 2017

Manoranjana Ram, S/o Gauri Shankar Ram, Resident of Village & P.O.-Boksa,
P.S.-Munfacial, District-Buxar.

... .. Petitioner

Versus

1. The State of Bihar through
2. Senior Superintendent of Police, Muzaffarpur, P.S. + Dist.-Muzaffarpur
3. Special Work Officer, C.S.P. Bihar, Patna. Sri Sai Tara Complex, I.A.S.
Collony, Jawahar Lal Nehru Margh Patna-801503
4. The Chairman, Central Selection Board of Constable, Bihar, Patna-801503

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Advocate Mr. Kameshwar Singh, Advocate
For the Respondent/s	:	Mr. Md.Nadeem Seraj -GP-5 Mr. Shailesh Kumar, A.c. to G.P.-5
For C.S.B.C.	:	Mr. Sanjay Pandey, Advocate Mr. Binod Kumar Mishra, Advocate Mr. Vivek Anand Amritesh, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 30-08-2018

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Central
Selection Board.

2. By way of this petition, the petitioner has prayed
for the following reliefs:-

“(a) For issuance of appropriate
writ(s)/order(s)/direction(s) for setting aside
resolution dated 18.9.2015 Gyanpank no.938
(SSC) issued by S.C.C. Bihar and S.S.P.



Muzaffarpur accordingly, whereby and whereunder punishment (discharge from service) without any proceeding conducted by authority only basis of allegation.

(b) For issuance of appropriate writ(s) order(s) direction(s) for setting aside resolution dated 19.9.2015 Senior Superintendent Officer, Muzaffarpur, Gayapank 3314, whereby whereunder the letter of S.S.C. dated 18.9.17.

(c) For issuance of appropriate writ(s)/order(s)/direction(s) commanding the respondents to grant the joining appointment in police department petitioner/applicant and all the consequential benefits to the petitioner.

(d) For any other relief(s) that the petitioner is entitled to in the facts and circumstances of the case.

3. During the pendency of this writ petition, the petitioner has been dismissed from service, which has been challenged by the petitioner through Interlocutory Application No.6730 of 2018.

The Interlocutory Application is allowed and the averments made in the application will be treated to be the part of the main writ petition.

4. In this case, the petitioner was selected as constable



through the Central Selection Board of Constable, Bihar, Patna, and he was sent to Muzaffarpur for training. During the training, a complain was received having stated that the petitioner has entered into the service through backdoor method as well on the strength of forged certificate. It has also been stated that the petitioner, at the time of joining, has produced forged certificate and on that basis the Senior Superintendent of Police, Muzaffarpur, asked him to present himself before the Central Selection Board of Constable and the Central Selection Board of Constable after verification of the record arrived to a finding that the petitioner has obtained the appointment on the strength of forged certificate.

5. Learned counsel for the petitioner submits that except the order passed by the Special Work Officer, Central Selection Board of Constable, no formal order of termination was passed by the competent authority. The basic work of the Board is to select the persons and recommend their names for appointment and training. There is no authority of the Board to record a finding, that will be the basis for competent authority to refuse the petitioner to complete the training, thereby dismissed him from service.

6. When this Court has asked learned counsel for the



State to produce the termination order of the petitioner, the same has been produced along with supplementary counter affidavit i.e. order dated 09.08.2018, wherein the order of this Court has been recorded and later on, placing reliance of the report of the Selection Board of Constable, terminated the services of the petitioner.

7. Learned counsel for the petitioner submits that termination order has been passed on the allegation of production of forged certificate, is stigmatic order that too without hearing to the petitioner, in such circumstance, the same is not sustainable and requires interference by this Court.

8. Learned counsel for the State has fairly accepted that there was no order of termination against the petitioner before the order passed by this Court, asking the State to produce the termination order and when this order was placed before the competent authority only thereafter, the order of termination has been passed against the petitioner.

9. Learned counsel for the Central Selection Board has tried best to show that the certificate which has been produced by the petitioner is completely a forged one as the signature in the original application as well as in the physical



Evaluation Test sheet are completely different to each other. However, the facts remains that the F.I.R. was lodged by the State, that ultimately turned to be acquittal of the petitioner as the State has not produced any witness in support of the charges made against the petitioner.

10. Reliance can be place on the judgement of the Hon'ble Supreme Court rendered in the case of *Anoop Jaiswal vs. Government Of India & Anr* reported in (1984) 2 SCC 369, there also the person during the period of probation was terminated from service. The Hon'ble Supreme Court has held that if the foundation of the order is a stigmatic one, in such circumstance, the order is not sustainable those who are in probation cannot be denied the right of hearing.

11. In such view of the matter, the order of dismissal of the petitioner containing memo no.1387/18 dated 09.08.2018 (Annexure-F) is quashed and set aside. The matter is remanded back to the competent authority i.e. Senior Superintendent of Police, Muzaffarpur, to take decision in accordance with law after giving proper opportunity to the petitioner. The competent authority should complete the process within a period of three months from the date of receipt/production of a copy of this order. It is clarified that reinstatement will be subject to result of



the order passed by the competent authority.

12. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	25.09.2018
Transmission Date	N/A.

