

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7662 of 2015

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Shahina Praveen w/o Arshad Ayub d/o late Hasamuddin Anshari, r/o village
Badwalia, PO Garkha, PS Bheldi District Saran **Petitioner**

Versus

1. The State of Bihar through secretary Home department government of Bihar, Patna.
2. The director General of Police, Bihar, Patna.
3. The central selection board (constable requirement) Bihar Patna through its secretary.
4. The chairman of central selection board (constable requirement) Bihar Patna.

.... .. Respondents

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Appearance :

For the Petitioner	: Mr. Chandra Kant, Advocate and Mr. Navin Kumar, Advocate
For the State	: Mr. Mritunjay Kumar, AC to GP 3
For the Board	: Mr. Sanjay Pandey, Advocate Mr. Binod Kr.Mishra, Advocate Mr. Vivek Anand Amritesh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 21-08-2018

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. Having participated in the selection process for
recruitment of constable in the Bihar Military Police pursuant to
advertisement dated 21.1.2014, a prayer has been made in the writ
petition 11 years thereafter that the petitioner should be appointed
on the post of constable, though she has been declared unsuccessful
in the physical test.

3. Learned counsel for the petitioner submits that the
petitioner would be satisfied if one opportunity is given to her to
participate in the long jump wherein she has been disqualified. It is
petitioner's pleading in the writ petition that she had completed



long jump successfully but she has been excluded and was induced to give an application for allowing her to participate in the long jump again. It is submitted that since assertions made to this effect in the writ petition has not been controverted then applying the doctrine of non traverse her claim should be accepted, that she had completed the long jump successfully. Reliance is placed on the case of **Smt. Naseem Bano Vs. The State of Uttar Pradesh and others**, reported in **AIR 1993 SC 2529**. The doctrine of non traverse can be applied in the case of the petitioner only if the pleadings of the petitioner itself inspire any confidence. In the instant case, said pleadings are not supported by Annexure 4 in support thereof, being the petitioner's application. In her application petitioner merely seeks another opportunity and nowhere she says that she had actually completed the long jump successfully and she has wrongly been disqualified. Pleadings in the writ petition regarding successful completion of long jump is not supported by the undated letter (Annexure 4). This application of the petitioner which is contained in Annexure 4 does not contain any receiving of the authorities. The specific claim of the petitioner in Annexure 4 is as follows:-

“उसके बाद लम्बी कूद कराया गया जिसमें मुझे दो अवसर दिया गया, लगभग 2 ईंच की दूरी से मुझे असफल घोषित कर दिया गया”

4. Such application of the petitioner does not support the



contention made in the writ petition.

5. Unless the petitioner makes out a case respondents cannot be called upon to respond to the same.

6. Other judgment relied upon by learned counsel for the petitioner is dated 26.6.2013, passed in C.W.J.C.No. 23090 of 2011 (Najaruddin Ansari Vs. The State of Bihar and others). This Court would observe that facts of the said case is essentially different inasmuch as said petitioner has been declared successful and found successful and thereafter was sought to be excluded which is not the case of the instant petitioner. The petitioner has not qualified in the long jump and was never found or declared to be successful. Having been declared unsuccessful she has filed the writ petition. There is no ground made out in the writ petition so that any order may be issued in the petitioner's favour.

7. The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
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