

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6781 of 2019

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Amir Suhail, Son of Mohammad Wakil Ansari At Present residing at Motizen Cottage, Old Azimabad Colony, Near Star Lodge, P.S.- Sultanganj, Mahendru, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principle Secretary, the General Administration department, Bihar, Patna.
2. The Bihar Public Service Commission Patna through its Secretary.
3. The Secretary Bihar Public Service Commission, Patna.
4. The Chairman Bihar Public Service Commission, Patna.
5. The Joint Secretary- cum- Examination Controller Bihar Public Service Commission, Patna.
6. Shivanand Singh S/o Kapil Muni Singh R/o Azad Nagar, Ward No. 01, District- Kaimur at Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Harendra Prasad Singh, Sr. Advocate Mr. Satish Kumar Sinha, Advocate
For the BPSC	:	Mr. P. K. Shahi, Sr. Advocate Mr. Vikash Kumar, Advocate
For the State	:	Mr. Md.Nadim Seraj (GP-5)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 09-05-2019

1. A counter affidavit has been filed during the course of arguments. Let it be kept on record.

2. The petitioner is aggrieved by the decision of the Bihar Public Service Commission (hereinafter referred to as "BPSC" for short) not recommending the posting of the



petitioner to one of the three choices given by him, which is essentially police service.

3. The petitioner had participated in the 56th to 59th Common Combined Competitive Examination of the BPSC and was ranked 107 in the merit-list. With that position in the merit-list, he was entitled to get anyone of the 1st, 2nd or 3rd preferences of the nature of service offered by the examination. The first three preferences of the petitioner related to police service. Since petitioner was found to be myopic, which according to the petitioner is a curable deformity, he was not allotted the aforesaid preferences.

4. The grievance of the petitioner does not rest at this. He again participated in the 60th to 62nd examination conducted by the BPSC, wherein also he was declared successful but with lesser percentage of marks and therefore lower position in the merit-list. In the later examination, the petitioner was found to be medically fit.

5. On the basis of the aforesaid assessment by the medical-board in the later examination, the petitioner has approached this Court for a direction to the concerned



respondents to give him the preference which he had indicated in the earlier examination.

6. The prayer does not appear to be tenable for the reasons: viz (i) There is nothing on record to indicate that the decision of the BPSC in not responding favourably to the objection of the petitioner was ever agitated in any Court of Law; and (ii) The petitioner has not been able to prove that the earlier opinion of the medical-board or the later report are infallible, i.e., no mistake could be found in either of the two reports.

7. If the petitioner has not yet accepted the offer of appointment in the earlier examination process, this Court can, on the asking of the petitioner, direct the respondent to offer him any post according to his merit which he has obtained in the later examination. This obviously would not be acceptable to the petitioner for the reason that in the later examination, his position in the merit-list is way below, which would not fetch him any service in the police department, which is normally the preferential choice of the candidate.



8. Since there is nothing on record to believe that the later report is correct and the earlier report was wrong, this Court would not like to interfere with the decision taken by the BPSC. No mandamus can be issued to the concerned respondents for treating the medical report of the petitioner in the later examination process to be correct for giving him a posting according to his choice in the earlier appointment process.

9. There is no merit in the petition and it is accordingly dismissed.

10. Before parting, it is made clear that whatever observation has been made in this order would not be to the prejudice of the petitioner, who has sought extension of time for joining on the post, which has been offered to him for his having been successful in the 56th-59th Common Combined Competitive Examination.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	11.05.2019
Transmission Date	

