

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12925 of 2011

-
1. Sunil Kumar, S/O Ram Bhaju Mahto, R/O Vill.-Harewa, P.O. Konag, P.S. Halsi, Distt.-Lakhisarai.
 2. Sanjeev Kumar, S/O Shivjee Sah, R/O Vill. and P.O. Diwari, P.S. Sursand, Distt.-Sitamarhi.

... .. 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 Inspector General of Police, Patna Range, Patna.
5. The Deputy Inspector General of Police, Patna Range, Patna.
6. The Senior Superintendent of Police, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar Singh, Advocate
For the State	:	Mr. Manoj Kumar, AC to GP-24
For the CSBC	:	Mr. Sanjay Pandey, Advocate
		Mr. Binod Kumar Mishra, Advocate
		Mr. Vivek Anand Amritesh, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 01-04-2019

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the Central Selection Board of Constable.

In the present case, the petitioners are challenging the letter contained in Memo No.167 dated 19.04.2011 whereby and whereunder the Chairman of Central Selection Board has cancelled the selection of the petitioners and also made a prayer for quashing the letter vide Memo No.7106 dated 29.04.2011 issued by the Senior Superintendent of Police, Patna by which the



petitioners have been terminated from their respective services on the ground that they were selected under the Home Guard Category but they failed to produce the certificate showing the petitioners were the members of the Home Guard.

An Advertisement in the Hindi Newspaper, namely, Hindustan was published on 12.12.2009. Accordingly, the petitioners have also filled up the forms. There are two categories, one from the General Category and another under the Home Guard Category. The petitioners have put the 'yes' mark in the column of the Home Guard and appeared in the examination, physical test as well as written test and they qualified in both the tests and finally, they were selected as Constables. The petitioners were sent for training, after completion of the same, they joined the place of posting. It transpired during the inquiry that altogether seven persons have wrongly been selected under the category of Home Guard, they did not belong to the Home Guard Category, whereupon the Senior Superintendent of Police conducted an inquiry and these seven persons including the petitioners were asked to produce the certificate of Home Guard, but the petitioners have failed to produce the same.

Counsel for the petitioners submits that by mistake they have put 'Yes Mark' in the Category of Home Guard though they



were not belonging to the category of Home Guard but they have been selected as such inasmuch as they have not committed fraud and it was a mere mistake and on the basis of merit they have been selected.

After the inquiry, Senior Superintendent of Police has found that out of seven persons, five were not holding the certificate of Home Guard and, accordingly, he informed the Chairman of the Selection Board, who vide letter contained in Memo No.167 dated 19.04.2011 declared the selection of these petitioners to be bad and finally, the Senior Superintendent of Police vide letter contained in Memo No.7106 dated 29.04.2011 terminated the services of the petitioners.

Learned counsel for the petitioners submits that it was a mere mistake committed on the part of the petitioners, in fact, they belong to non-Home Guard Category and they have been selected and without examining the issue as to whether they can be selected in their respective category, the order impugned has been passed, whereas, counsel for the Selection Board submits that the petitioners were required to give proper information while filling up the forms, it is an admitted fact that the petitioners have never received any training of the Home Guard nor had done any job of Home Guard, even then they have filled up the forms in the



category of Home Guard and on the basis of wrong information, they have been selected and it is nothing but suppressing the real fact from the Selection Board, which was later on found incorrect and on that information given by the petitioners with regard to the status as Home Guards, had secured his entry in service in a wrong manner.

It is a fact that the petitioners belong to a non-Home Guard category and they have never received any training nor have performed any job of Home Guard. It can be a mistake while filling up the forms and on that basis they were selected, but if the mistake goes to the root of the matter, it requires interference. If the basis of their selection is found non-existent then, in that circumstances, the petitioners cannot claim that the action taken by the Chairman of Selection Board and the order of Senior Superintendent of Police dated 29.04.2011 in any manner to be illegal.

In such view of the matter, this Court does not find any merit in the present writ application and, accordingly, the same is dismissed.

(Shivaji Pandey, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	04.04.2019
Transmission Date	N.A.

