

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17828 of 2019**

=====

Koushal Kumar Son of Late Kameshwar Singh Resident of Village- Maw  
Tehsil, P.S.- Tekari, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar.
3. Superintendent of Police (Vitantu) Bihar Police Radio, Patna, Bihar.
4. The Chairman, Central Selection Board (Constable Recruitment), Patna.

... .. Respondents

=====

**Appearance :**

|                           |   |                                                                         |
|---------------------------|---|-------------------------------------------------------------------------|
| For the Petitioner        | : | Mr. Sandeep Kumar<br>Mr. Alok Kumar @ Alok Kr Shahi<br>Mr. Rohit Raj    |
| For the Respondent State: |   | Mr. P.K.Verma, AAG-3                                                    |
| For the CSBC              | : | Mr. Sanjay Pandey<br>Mr. Binod Kumar Mishra<br>Mr. Vivek Anand Amritesh |

=====

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

ORAL ORDER

5      05-11-2019                      Pursuant to an advertisement issued by the Central Selection Board (Constable Recruitment), Patna, the petitioner had applied for his recruitment as Driver Constable in Bihar Police Radio Organization. When the petitioner had applied for the post, he was working in Indian Army. The petitioner was selected for appointment. It was indicated in the result published by the Board that the successful candidates will have to submit their joining between 30.08.2017 and 30.09.2017. The petitioner, since was serving in Indian Army, had applied for extension of the date of joining as his application seeking voluntary retirement was pending. The last date for submission



of joining was extended up to 14.10.2017. The petitioner could not join since, according to him, his application seeking voluntary retirement remained pending. In the aforesaid background, the present writ application has been filed seeking direction to the respondents to accept his joining as now he has been allowed to voluntarily retire with effect from 30.04.2019.

Mr. Sandeep Kumar, learned counsel appearing on behalf of the petitioner, has submitted that this Court may take a sympathetic view keeping in mind the fact that it was not because of any fault on the part of the petitioner that he could not submit his joining within the time stipulated by the respondents. Though he was willing to join, since he was not relieved by his employer, and as his application was pending, he could not submit his joining. He has relied on a decision of this Court, in case of *Dr. Sudhakar Thakur vs. State of Bihar through the Chief Secretary and others*, reported in **2019(4) PLJR 253**, to contend that since the posts are still vacant, a direction may be issued to the respondents to allow the petitioner to join the post for which he was selected.

A counter affidavit has been filed on behalf of the Board. It has been stated in paragraph 13 of the counter affidavit that it was clearly indicated in the notice dated 02.10.2017,



whereby the date of joining of successful candidates was extended to 14.10.2017, that those candidates, who fail to join by the extended date, their candidature shall stand cancelled. He has relied on a decision of Supreme Court, in case of ***State of Bihar and others vs. Amrendra Kumar Mishra***, reported in **(2006) 12 SCC 561**, to submit that once the petitioner failed to join the post against which he was selected, even by the time extended for the said purpose, no relief, as sought, can be granted. He has also argued that subsequent to the said selection process, another process of selection has been initiated and completed also and, in such circumstance, this Court may not issue direction as sought for in the writ application. He has also submitted that the decision of this Court in case of ***Dr. Sudhakar Thakur*** (supra) has no application in the facts and circumstances of the present case inasmuch as the Court had issued directions in case of ***Dr. Sudhakar Thakur*** (supra) keeping in mind the fact that certain posts had remained vacant because of non-joining of selected candidates.

In reply, Mr. Sandeep Kumar, learned counsel for the petitioner, has submitted that the posts are still vacant.

I do not find any merit in the writ application for the reason that the petitioner could have claimed appointment in



any event only against the posts, which were earlier advertised through Advertisement No. 1/2016. The said process of selection came to an end once appointments were made on the basis of the said selection. No order can now be issued for filling-up the posts, which were subsequently advertised through Advertisement No.1/2018. In my view, Mr. Pandey, learned counsel appearing on behalf of the Board, is correct in his submission in the light of the Supreme Court's decision in case of *State of Bihar and others vs. Amrendra Kumar Mishra* (supra), wherein the Supreme Court did not approve of exercise of jurisdiction by the High Court under Article 226 of the Constitution of India while directing the respondents to allow a candidate to join against a post though he had failed to join within the stipulated time.

This application has thus no merit and is accordingly dismissed.

**(Chakradhari Sharan Singh, J)**

Pawan/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

