

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1597 of 2018

In

Civil Writ Jurisdiction Case No.7494 of 2017

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Manish Kumar Paswan Son of Binod Paswan Resident of Village- Maheshi,
P.O.- Tilakpur, P.S. Sultanganj, District- Bhagalpur.

... .. Appellant/s

Versus

1. The Union Of India through the Directorate General, C.R.P.F., CGO Complex, Lodhi Road, New Delhi, Ministry of Home Affairs, New Delhi.
2. The Staff Selection Commission, New Delhi through its Secretary, Lodhi Road, New Delhi.
3. The Staff Selection Commission (Central Range), 21-23 Lodhi Road, Allahabad through its Regional Director
4. The Deputy Inspector General of Police, GC- CRPF, Kota Road, Bharni, Bilashpur, Chhatishgarh.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Yugul Kishore, Sr. Advocate
Ms. Pravina Kumari, Advocate
For the Respondent/s : Mr. S.D Sanjay, Addl. Soc. Gen.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE JUSTICE SMT. ANJANA MISHRA)

Date : 22-08-2019

Re : I.A. No. 8387 of 2018

After having heard learned counsel for the appellant,
we are satisfied that sufficient cause has been shown to condone
the delay. Delay is accordingly, condoned and the appeal shall
be treated to be within time.



Re : L.P.A. No. 1597 of 2018

The present appeal has been filed against an order dated 18.05.2018 passed in C.W.J.C. No. 7494 of 2017 by the learned Single Judge dismissing the writ application filed by the appellant for setting aside an order dated 04.04.2016 issued by the Deputy Director (Nomination) (respondent No. 3), whereby and whereunder the candidature of the petitioner has been cancelled and he has been debarred from appearing in any examination held by the Staff Selection Commission (hereinafter referred to as the 'SSC') for three years. In the said writ petition a further prayer had been made to direct the respondent to accept his joining after quashing the letter dated 11.04.2017, whereby the offer of appointment issued to the petitioner has been cancelled. Aggrieved by the impugned judgment of the learned Single Judge, the appellant has preferred the present intra court appeal.

(i) The factual matix of the case dates back to the year 2013 when his application for Central Armed Police Force (CAPF) selection, 2013 in which he qualified in all the physical, written and medical test held at different places at Bihar and he was finally selected for the CISF, but on the pretext of general enquiry the appointment letter was not issued to the petitioner



and certain signatures and fingerprints were taken by the authorities for verification.

(ii) In the year 2015, the petitioner again submitted an application for appointment on Constable (GD) in CRPF Selection 2015 and was declared successful on provisional basis subject to fulfillment of all eligibility criteria of the selection and, accordingly, his dossier was forwarded to the user department for advice to issue offer of appointment only after thorough verification.

It is important to indicate here that the writ petitioner had been issued Registration I.D. No. 51154620412 on-line and accordingly he appeared for physical eligibility test vide admit card provided to him containing Roll No. 3201053958 fixing 03.07.2015 for the test at Centre CISF Unit Kahalgaon, District Bhagalpur. Accordingly, the petitioner appeared for the physical test and qualified in all the items of the physical eligibility test. He was then issued an admit-card for appearing at the written test on 04.10.2015 with centre at Bhagalpur. The petitioner also qualified in the written test. Thereafter, the petitioner appeared for a medical test on 15.05.2016 at 56th Bn. SSB, Araria, Koshi Project Colony, Bathnaha, District-Araria in the State of Bihar. Having been



found medically fit, his name was uploaded on the website against the Statewise vacancies and ultimately in the declaration of force allocation of provisional selected male candidate, he was shown to be selected in CRPF on 06.02.2017.

(iii) The petitioner was offered appointment for the post of Constable (General Duty) in the CRPF vide No. 02/2017 dated 27.02.2017 from the office of the Deputy Inspector General of Police, Bilaspur, Chhattisgarh and was directed to report for duty on 21.03.2017, with original documents and testimonials (Annexure-6), but when he reported on 21.03.2017 in the office of the Deputy Inspector General of Police, CRPF, Bilaspur, Chhattisgarh, his joining was not accepted and instead he was handed over an order dated 04.04.2016 issued by the respondent SSC (Central Region, Allahabad) under which he was informed with regard to the CAPF Selection, 2013 that it had been found in an enquiry regarding the selections of 2013 that his signatures and left thumb impressions differed at different stages and as such his candidature as well as selection in the CISF had been cancelled as he stood debarred from participating in the SSC examinations for three years since 12.05.2013 i.e., till 12.05.2016 and therefore could not appear in the subsequent fresh selections the exams whereof were held in



2016.

2. It was on the basis of the said letter dated 04.04.2016 (Annexure-7) that the joining of the petitioner was refused vide memorandum of cancellation of offer of appointment dated 11.04.2017 issued from the office of the D.I.G.P., Group Centre, CRPF even though an offer of appointment had been issued to him pursuant to a subsequent selection. Aggrieved by these two orders dated 04.04.2016 and 11.04.2017, the petitioner preferred the writ application giving rise to this appeal. After hearing the parties, the learned Single Judge dismissed the writ application but while considering the same he has not referred to the subsequent selection pursuant to the advertisement of 2015 which came to form the basis of the present claim of the appellant.

3. Learned counsel for the petitioner submitted that the office order dated 04.04.2016 as contained in Annexure-7 is wholly illegal and arbitrary and was never received by the petitioner at any stage nor was any enquiry report which forms the basis of the said order ever communicated to the petitioner nor had he any knowledge about the same. It was rather at the time of joining pursuant to a subsequent letter of offer of appointment, that the respondents have sprung up this wholly



arbitrary order, by which he is said to have been debarred from appearing in any examination for a period of three years. It was submitted that in case, there was any incriminating enquiry report against the petitioner, he ought to have been issued a show-cause notice calling him to explain as to why his candidature should not be cancelled, but the respondents never followed any such procedure and have prevented him from joining on the basis of the order dated 04.04.2016 though he was debarred from participating in the SSC examination since 12.05.2013 for three years. The order dated 04.04.2016 has been issued after almost three years of the first examination and even after the petitioner had participated in the subsequent examination. Learned counsel for the petitioner thus contended that such an action on the part of the respondents smacks of arbitrariness, discrimination and is a fit case that warrants interference by this Court under Article 226 of the Constitution of India. He, thus, prayed for a writ in the nature of Certiorari for quashing the orders dated 04.04.2016 and also order dated 11.04.2017 (Annexure-8) and as a consequence thereof, a mandamus to permit the petitioner to join on the post of Constable (GD) in the CRPF as per the earlier offer of appointment.



4. The case of the writ petitioner was squarely opposed by the respondents No. 2 and 3 in their counter affidavits filed in the writ application who have brought on record the entire documents including the report of the Central Forensic Science Laboratory (hereinafter referred to as the 'CFSL') in which the petitioner's handwriting and signatures were found to be at variance with the signatures available at the time of conduct of the examination. It was submitted by the SSC that for any selection by the Staff Selection Commission there is a three tier examination consisting of Physical Standard Test/Physical Efficiency Test and written examination followed by medical examination. It was thus submitted that the candidates were clearly instructed and cautioned through para 2 of *Important Instruction To Candidates* of notice of the examination which is extracted hereunder:-

“In view of the anticipated large number of applicants, scrutiny of the eligibility and other aspects will not be undertaken before the PST/PET and written examination and, therefore, the candidature will be accepted only provisionally. Candidates are advised to go through the requirements of educational qualification, age, physical standard etc. and satisfy themselves that they are eligible for the posts, before applying. Copies of supporting documents will be sought only from those candidates who qualify for Medical



Examination. When scrutiny is undertaken after the examination, if any claim made in the application is not found substantiated, the candidature will be cancelled and the Commission's decision in this regard shall be final".

5. It was also further submitted by the respondents that the petitioner applied for the said examination in the year 2013 and on the basis of performance in the examination, he was declared qualified to the post of Constable (GD) purely on provisional basis subject to fulfillment of the eligibility criteria as prescribed in the Notice of Examination. It was very clearly stated in para-10 of the write up of the final result declared on 30.05.2014 which is as follows:-

"The list of candidates is subject to their fulfilling all the eligibility conditions prescribed in the Notice of the said Examination and also subject to among other things, thorough verification of their identity with reference to their photographs, signatures, handwriting etc. on the application forms, admission certificates etc. It was next submitted that the petitioner was recommended to the post of Constable (GD) in SSB on provisional basis. However, during the verification of available record before forwarding his name to the user department i.e. Central Industrial



Security Force (CISF) for issue of offer of appointment as it noticed difference in signature, handwriting and thumb impression were noticed in the case of some candidates including the petitioner. Accordingly, the dossier of the petitioner and others was forwarded to the office of CISF vide the office letter dated 20.10.2014 on provisional basis and they were advised to issue offer of appointment only after through verification of their identity etc.”

6. Learned counsel for the SSC clearly submitted that the detailed opinion as given by the CFSL clearly indicated that the person who wrote the writing in signatures stamped and marked, as S1 to S8 and other specimen signatures as indicated in the report were not the writings and signatures stamps and marked, as those writings and signatures available on the admission certificates of the Commission's copies filed in the examination hall at the time of written examination. The extract of the opinion received from the expert in respect of the petitioner (Manish Kumar Paswan) and marked Annexure R/1 which has been brought on record by the respondents. It was further submitted that in a similar case the Hon'ble High Court at Allahabad had taken a definite view while dismissing the writ petition No. 32867 of 2016 wherein the Court declined to



interfere on the basis of reports of expert agencies and yet in another case, a similar view was adopted by the same Hon'ble Court wherein they opined that when a clear finding had come from the government examiner against whom no bias could be attributed, the Court could not carve out any exception to the conclusion so arrived.

7. Learned counsel for the SSC submitted that the expert opinion of the CFSL clearly establishes that the petitioner had procured impersonation in the written part of the examination and he had tried to secure a government job by fraudulent means and, therefore, the writ application was not fit to be entertained, but should be dismissed with costs as on the basis of the available record, the candidature of the petitioner was cancelled on 04.04.2016 and he was debarred from appearing in the examination conducted by the Commission for three years from the date of the written part of the said examination which was held on 12.05.2103.

8. Learned counsel for the SSC further contended that it appears that, during the pendency of the enquiry of the petitioner's case with regard to the examination held for appointment in Assam Rifles Examination, 2013, the petitioner had applied for the post of Constable (GD) in CAPFs, N.I.A.



and S.S.F. and Rifleman (GD) in 2015 and was declared successful on provisional basis subject of fulfillment of eligibility criteria of the examination. Accordingly, his dossier was forwarded to the user department with advice to issue offer of appointment only after thorough verification.

9. However, it appears that on subsequent verification, the candidature of Shri Manish Kumar Paswan was cancelled for having secured the earlier selection on impersonation in the written part of the examination. He was also debarred from appearing in the examination to be conducted by the SSC for three years from the date of examination i.e., 12.05.2013 to 11.05.2016 as per standard practice followed by the Commissioner whereafter malpractice/impersonation is detected. Thus, Manish Kumar Paswan stood debarred with effect from 12.05.2013 to 11.05.2016 whereas the subsequent examinations for recruitment in Assam Rifles, 2015 was held on 03.07.2015 and 04.10.2015 which was held within the period of three years for which the Commission had debarred him from appearing in the examination.

10. In view of such circumstances, it was submitted that it is well established fact that success in examination



confers no right of appointment unless the concerned authorities are satisfied after such enquiry as may be considered necessary that the candidate is eligible in all respects of appointments to the service posts.

11. Learned counsel for the respondents further submitted that the contention of the petitioner that the office Memo date 04.04.2016 was served on him only at the time of his joining is wholly misconceived and false as the same was sent to his residential address by speed post on the address available in his application form. Thus, such a contention as raised by the petitioner cannot be entertained. Furthermore, he was guilty of having given a wrong declaration in his form that he had not been debarred in the examination as on the date of his application, the petitioner was fully aware that he was suffering from such a debarment.

12. The respondents CRPF have also filed counter affidavit in the writ application in which, more or less, they have reiterated the stand taken by the respondent SSC stating that the petitioner, having been debarred vide letter dated 04.04.2016 which was addressed to the petitioner and had been sent through speed post, could not have participated in the subsequent selection of 2015 as his debarment by virtue of the order dated



04.04.2016 was operational on the date of his application. It was submitted that on-line admit-cards appearing in the PST/PET/written/Medical examination and GCB CRPF, Bhagalpur were issued and appeared in all tests of the recruitment process without disclosing the above fact that he stood debarred and willfully participated at his own risk. As a result whereof he qualified and was given the offer of appointment on 27.02.2017 with a direction to join for duty on 21.03.2017 at G.C., CRPF, Bilaspur, as per the terms and conditions of appointment, without knowing the fact that the petitioner is a debarred candidate by SSC.

13. However, on the basis of a signal received on 11.03.2017, the said fact regarding debarment came to be known. Thus, vide order dated 16.03.2017, the Director General, Recruitment, CRPF, New Delhi, forwarded a list of total nine candidates including that of the petitioner that included the name of the petitioner who stood debarred and thus, the petitioner was prevented from joining. Thereafter, vide letter dated 23.07.2017 issued from the D.I.G. (Recruitment), Director General, CRPF, New Delhi, contained in A-VI-1/2015 RECTT (SSB)-CT/GD-2015 dated 27.03.2017 cancelled the candidature of the debarred candidate as also that of the



petitioner. It was thus submitted that the petitioner has no case as it has been well settled by the Apex Court that the Court should not interfere in the field of the experts unless the Court's violation of rules and regulations have been established, it is not open to the petitioner to challenge the order which was passed pursuant to the report of the CFSL. It is further submitted that the rejection of the petitioner's candidature is wholly legal and justified as he has given a false declaration that he is not debarred when on the date of his application, the petitioner's candidature stood debarred.

14. We have heard learned Senior Counsel Shri Yugal Kishore for the petitioner and learned Senior Counsel Shri S.D. Sanjay, A.S.G., appearing for the respondents at length and have perused the materials on record. The report of the CFSL has also been carefully perused by us insofar as it relates to the examination of the year 2013, wherein there is a clear allegation of impersonation and verification were made with regard to the signature of the petitioner by the expert body. So far as the said issue is concerned, we do not propose to enter into any issue as the law stands well settled in this matter. We fully agree with the order of the learned Single Judge as the order which was passed on the basis of the said report i.e.,



04.04.2016 cannot be interfered as the same was passed relying on the aforementioned CFSL report. Thus, so far as the report dated 04.04.2016 is concerned (Annexure-7), we are of the firm view that the same is wholly legal and valid and calls for no interference and, therefore, we decline to interfere with the prayer of the petitioner in this regard.

15. The second issue which has been agitated before this Court in the writ application and it is also one of the grounds raised in the present Appeal is with regard to the order having been served on the petitioner. We cannot go into the issues of facts of the service of the said notice on the petitioner as the respondents have not produced any document to prove that, in fact, the said notices were effectively served on the petitioner. However, what is patent from the submission, is that the said order was passed on 04.04.2016 after the petitioner had made an application for the posts pursuant to the advertisement of 2015. Therefore, in our opinion, it cannot be said that the petitioner had on the date of application given a wrong undertaking that he had been debarred from appearing in any examination as the order itself has been passed on 04.04.2016.

16. It appears from a perusal of the order of the learned Single Judge that only the 2013 examination has been



taken into consideration and the report which was submitted by the CFSL on 01.02.2016 forms the basis of the order dated 04.04.2016 which was with regard to the examination of 2013.

17. We, however, observe an absurdity in one of the documents which have been produced before us and has been marked as R/1 to the affidavit filed by the office of the D.I.G., CRPF on 13.09.2017 in the writ application. The date of Declaration indicated therein is 17.05.2016 wherein the petitioner has stated at clause -4 as follows:-

“I also declare that I do not stand debarred by SSC/UPSC as on date and have never been convicted by any court of law. I also declare that no criminal case is pending against me. Further, declare that I have never been dismissed or removed from Govt. Service or my service been terminated during probation.”

The said date is also the same date as the date of Medical Examination which is marked as Annexure-3 to the writ application.

18. We have noted all the facts and circumstances of the case as also the order dated 04.04.2016 which was passed during the period when the petitioner was taking up the examination and period within which the results of examination of 2015 were finally published. It appears that during the entire period, the petitioner's candidature stands debarred and,



therefore, his application could not have been considered and for that reason, we do not find that the offer of appointment given to the petitioner was legal and valid.

19. In view of the aforementioned facts and circumstances and the reasons which have been indicated hereinabove, we are not inclined to interfere in the order passed by the authorities rejecting the candidature of the petitioner.

20. The Appeal thus stands dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	28.08.2019
Transmission Date	

