

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20742 of 2019

=====

Nirlok Kumar, son of Sri Raj Nath Singh, resident of village and P.O.-
Bensagar, P.S.- Karakat, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Home Department, Bihar, Patna.
2. Director General of Police, Military Police, Bihar, Patna.
3. Inspector General of Police, Military Police, Bihar, Patna.
4. Deputy Inspector General of Police, Military Police, Central Zone, Patna.
5. Commandant, Bihar Military Police -4, Dumraon (Buxar).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Harshvardhan Shivsundaram, Advocate
For the Respondent/s : Mr.Md. N. H. Khan (SC-1)

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 08-01-2020 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner in the present writ application has prayed for a mandamus with a prayer that he be adjusted as 'Driver Constable' against the available vacancy in Bihar Military Police under Rule 1186 (ka) of the Bihar Police Manual, 1978 and to pay the petitioner all consequential benefits.

Learned counsel for the petitioner submits that the petitioner was appointed in the Bihar Military Police as Constable (General Duty) and was posted in B.M.P. - 4,



Dumraon, Buxar. Having successfully taken the driving test on 09.01.2010, the petitioner was taken in and was made to work as a Driver.

The Additional Director General of Police, Military Police, Patna directed the Commandant, B.M.P. - 4 vide letter no. 695 dated 15.04.2011 to take further steps under Rule 1186 (Ka) of the Bihar Police Manual for posting of selected candidates against three posts of Learner Constable for which reminders were also issued from his office vide letter no. 1822 dated 21.10.2011 and also letter no. 965 dated 31.07.2012. Another letter no. 381 dated 31.03.2014 was also issued and in pursuance to the aforesaid letters, the petitioner and two other Constables were posted against three posts of 'Learner Constable' vide Force Order No. 754/2014 as contained in Memo No. 1609 dated 22.09.2014 issued by the Commandant, B.M.P. - 4 Dumraon (Annexure- P/2).

In the year 2017, the Director General of Police, Military Police, Bihar Patna again sought certain information from the Commandant, B.M.P. - 4 vide letter no. 1464 dated 24.10.2017 and directed him vide letter no. 1749 dated 20.12.2017 to take appropriate steps for adjustment/posting of the petitioner and two others as 'Driver Constable'. However,



the Commandant, B.M.P.- 4 sat tight over the matter and instead adjusted against the post of 'Driver Constable' two other 'Learner Constables' of the North Zone, who have been selected subsequent to the petitioner of a different Zone. It was, thus, submitted by the learned counsel for the petitioner that though the petitioner, who is a Learner Constable and has been driving the vehicle of the respondents for the last 10 years and was duly entitled to be adjusted against the post of Driver Constable under Rule 1186 (Ka) of the Bihar Police Manual, the other persons, who were brought into the fold whereas the case of the petitioner was ignored which is wholly arbitrary, discriminatory and under the constitutional mandate of Article 14 and 21 of the Constitution of India. Learned counsel for the petitioner, thus, submits that in the wake of the aforementioned circumstances, this Court under its extra ordinary jurisdiction may exercise and issue necessary directions.

A counter affidavit has been filed in this case in which the respondent nos. 4 and 5 have contended that the General Constable Cadre and Driver Constable Cadre are different and are having a different sanctioned strength. It has been submitted that the spirit of police manual of Rule 1186 (Ka) is to meet the shortage of driver for executing the departmental duty as



assigned and it is only a temporary arrangement for taking work from the drivers and is but stop gap arrangement. He, thus, submits that only because the petitioners were sent for training and because they are working as a learner Constable Drivers in different zone would not entitle them to be appointed/adjusted in the cadre.

Learned counsel for the petitioner, however, contends that this Court had occasion to deal with a similar situation and the matter has now been put to rest in the case of **Upendra Singh & Ors. Vs. State of Bihar & Ors.**, in which, directions were issued to the respondents to consider their cases.

Having considered the entire facts and circumstances of the case, it appears that the situation in which the petitioner has been placed is almost identical to the facts of the case as indicated in the Division Bench Judgement reported in **2019(4) PLJR, page 921** and the present petitioner deserve a similar direction to the respondents to consider the case afresh particularly in the light of Annexure- 4 & 4(A) which are orders passed in favour of others similarly situated 'Constable Driver' who were taken into the service as and when the posts became available.

It is, accordingly, directed that the petitioner shall



appear before the respondent no. 4 (Deputy Inspector General of Police, Military Police, Central Zone, Patna) with the copy of the representation and the relevant rules as also the orders passed by this Court from time to time and the authorities shall take due consideration of all facts and circumstances including Annexure-4 to redress the grievance of the petitioner in accordance with the direction as contained in the Division Bench Judgement as stated herein above. The aforementioned exercise must be completed within a period of six weeks from the date of receipt/production of a copy of this order.

Accordingly, the application stands disposed of.

(Anjana Mishra, J)

Jagdish/-

U			
---	--	--	--

