

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7483 of 2019

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Mohit Kumar Son of Shri Rishipal Singh R/o Village-Yusufpur, P.O.-Gajsthal,
P.S.-Nagwan Sahdlat, District-Amroha (U.P.)

... .. Petitioner/s

Versus

1. The Union of India through Ministry of Home and External Affairs, New Delhi
2. The Additional Judge Advocate General (Discipline) Frontier Headquarter, SSB, New Delhi
3. The Assistant Director (Personal-II) Frontier Headquarter, SSB, New Delhi
4. The Inspector General (SSB) New Delhi
5. The Deputy Inspector General Shasastha Seema Bal, Sector Headquarter, SSB, Purnea
6. The Commandant 51st Battalion, SSB, Sitamarhi, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Singh, Advocate
For the Respondent/s : Mr. S.D.Sanjay (Adsg)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 17-11-2021

Heard learned counsel for the parties.

In the instant petition the petitioner has prayed for the following reliefs:-

“(i) For issuance of writ in the nature of certiorari for quashing the order dated 09.09.2014 (Annexure No. 3 to the instant writ petition) passed by the Commandant, 51st Bn., SSB, whereby and where under an offer of Appointment for the post of Constable (GD) has been issued to this petitioner by Assistant Director (Pers-II), FHQ, SSB, New Delhi vide Memorandum No. 2/31/12/SSB (SSC)/Rectt. CT/Pers-II/17764-17766 dated 16.05.2012 with the direction to



report to the Commandant, 24th SSB, Bathnaha (Bihar) for further joining in 51st Bn. SSB, Sitamarhi-II on or before 14.06.2012 has been cancelled by saying that this candidate is not fit for appointment of SSB in terms of MAH UO No. 1.45020/6/2010-Pers-II dated 01.02.2012 alleging therein that a police case no. 1498/2001, registered U/s 147/332/353/323/504/506 of Indian Penal Code is laying pending against him although this petitioner has been equated or discharged from the said case in question and the same would not be disqualification of service of the petitioner.

(ii) For issuance of writ in the nature of certiorari for quashing the order dated 24.08.2015 (Annexure-7) passed by Dy. Inspector General, SHQ, SSB, Muzaffarpur, whereby and where under the appeal filed by the petitioner has been rejected mentioning therein that since the instant appeal/case is not a removal or dismissal or retirement under SSB Act and Rules, therefore, the present appeal cannot be dealt under rule 29 of SSB Rules 2009.

(iii) For issuance of writ in the nature of mandamus directing the respondent authorities to take notice of the factum that the prosecution against the petitioner has already withdrawn, meaning thereby there was no prosecution at all against the petitioner, and to reconsider the candidature of the petitioner and to direct the petitioner for the post of Constable (GD) in Shastra Seema Bal with all consequential and ancillary benefits.



(iv) For issue any other writ order or direction, which this Hon'ble Court may deem fit and consider proper under the circumstances of the case."

The petitioner was candidature for the post of Constable (General Duty) and he was selected and appointed. Appointing authority after perusal of antecedent of the petitioner, it is noticed that the petitioner was facing Crime Case No. 1498 of 2010 for the offences punishable under Sections 147, 332, 353, 323, 504 and 506 of the Indian Penal Code and it was pending consideration in District Session Court, J.P. Nagar, Uttar Pradesh. The petitioner has not disclosed the aforesaid pendency of criminal case at the time of selection to the post of Constable (General Duty). In this backdrop, the Commandant, 51st Battalion, SSB, Sitamarhi-II, Bihar cancelled the appointment of the petitioner by its order dated 09.09.2014.

Being aggrieved and dissatisfied with the order of cancellation of appointment the petitioner filed Writ-A No. 18652 of 2018 before the Allahabad High Court and suffered the order dated 31.08.2018. The petitioner has not revealed the aforesaid order of the Allahabad High Court dated 31.08.2018 in the present petition. He had remedy before the Allahabad High Court or before the Apex Court.



No doubt, the petitioner has not been provided an opportunity of issuance of show cause notice before cancellation of his appointment on 09.09.2014. At the same time, one of the important fact is that the petitioner has not approached this Court with clean hand. In other words, he has suppressed the material information that he had approached the Allahabad High Court in Writ-A No. 18652 of 2018 and suffered the order on 31.08.2018. Such order is binding on the petitioner. The order dated 31.08.2018 is not set aside by the competent court, the present petition is not maintainable in this court. On this score itself the petition is not maintainable. Accordingly, the writ petition stands dismissed.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.11.2021
Transmission Date	N/A

