

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9959 of 2020

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Dipu Kumar S/o Baijnath Mandal, Resident of Village - Mathurapur, P.O. Kabirchak, P.S. - Sadar (Darbhanga), District - Darbhanga PIN- 846009.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home Department, Government of Bihar, Patna.
2. The Director General of Police-cum-I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, Patna.
4. The Senior S.P. Of Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Jha

For the Respondent/s : Mr. Manish Kumar, GP-4

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 01-07-2022

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. After qualifying in the process of selection for appointment as a constable, petitioner's selection has been cancelled for the reason that he had gained selection by illegal means. The basis for such finding is to be found in the report of the Officer on Special Duty Central Selection Board of Constables dated 10.10.2015 (Annexure- 4). This Court would consider it useful to reproduce relevant extract of the report which reads as follows:-

"इस संबंध में गहराई से पूछताछ करने पर उक्त तीनों अभ्यर्थियों द्वारा लिखित रूप से यह स्वीकार किया गया कि सिपाही भर्ती 2014 की लिखित परीक्षा में इन तीनों स्थान पर तीन अन्य लड़का बैठा था जो



परीक्षा में सफलता दिलाया है। उक्त तीनों अभ्यर्थी का स्वीकारोक्ति बयान क्रमवार निम्न है:-

. अभ्यर्थी दीपू कुमार, रोल नं० 1028170228 द्वारा लिखित रूप से स्वीकार किया गया कि सिपाही भर्ती 2014 की लिखित परीक्षा में इनके स्थान पर दूसरा लड़का सुनील कुमार, स्टेशन रोड, दरभंगा 50,000/- (पचास हजार) रुपये लेकर परीक्षा में बैठकर इन्हें सफलता दिलाया है। साक्ष्य स्वरूप इनका लिखित स्वीकारोक्ति आवेदन संलग्न है।

. इस प्रकार उक्त तीनों अभ्यर्थियों एवं इनके सहयोगियों के विरुद्ध सिपाही भर्ती की लिखित परीक्षा में फर्जीवाड़ा कर सफलता प्राप्त करने का आरोप बनता है।

अतः इस संबंध में निदेशानुसार कहना है कि उक्त तीनों अभ्यर्थियों एवं इनके सहयोगियों के विरुद्ध सिपाही भर्ती की लिखित परीक्षा में फर्जीवाड़ा कर सफलता प्राप्त करने के आरोप में अपने स्तर से अलग से प्राथमिकी दर्ज करवाते हुए उसकी एक प्रति इस कार्यालय को उपलब्ध करवाने की कृपा की जाय ताकि इन तीनों का चयन रद्द किया जा सके। उक्त तीनों अभ्यर्थियों के जाँच से संबंधित सभी मूल अभिलेख प्रा०अ०नि० राघव सिंह को अग्रतर कार्रवाई हेतु वापस किया गया।

अनुलग्नक:- यथोपरि"

3. Criminal case (Dudhiya P.S. Case No. 260/2015)
has also been lodged against the petitioner.



4. It is under this circumstance, the petitioner had approached this Court by filing CWJC No. 2345/2018. The same was disposed of on 29.08.2018 (Annexure- 7), according to the following order.

“Heard learned counsel for the parties.

Learned counsel for the petitioner submits that the fact of the present case is exactly similar to the fact of C.W.J.C. No.16102 of 2016 (Ranjit Kumar Vs. The State of Bihar & Ors.) disposed of on 04.02.2017 and, as such, the present petitioner should also be granted the identical relief as has been given to Ranjit Kumar.

Let the authority concerned should examine the case of the present petitioner and the case of Ranjit Kumar (supra) and if it is found that both the cases are exactly identical, in that circumstance only, the same relief will be granted to the present petitioner.

It is further directed to the authority concerned to conclude the departmental enquiry expeditiously preferably within a period of three months from the date of receipt/production of a copy of this order.

It is also made clear that if the petitioner would not cooperate in the early disposal of the departmental



enquiry, the Enquiry Officer will be at liberty to conduct the enquiry ex-parte and take a decision in accordance with law.

With the aforementioned observation and direction, this writ application is disposed of.”

5. Instant writ petition has been filed for the following reliefs:-

I. For Issuance of an appropriate writ/s, order/s, and direction to set aside the impugned termination order of petitioner, Zilladesh No. 491/2016, dated 18.01.2016 which has been communicated to the petitioner vide memo no. 3021/२०२० Patna dated 02.03.2020, (Annex.12) passed by the S.S.P. Patna without follow the Police Manuals Rules and Natural Justice.

II. For issuance of an appropriate writ, order/orders, direction/directions in nature of Mandamus directing and commanding the concern respondents to set aside the punishment awarded to the petitioner in Annexure-12 and reinstate the petitioner on his own post with all back wages and consequential benefits in light of Hon'ble Court order dated 03.01.2017 and 16.01.2020 of CWJC No. 18337 of 2016 and CWJC No. 846/2020



respectively in very much similar matter (Annexure-9 & 10).

III. For issuance of an appropriate writ, order/orders, direction/directions to the concern respondent authorities to pay the arrears of salary for the entire dismissal, suspension and custody period as well as the working periods to the petitioner, i.e. date of joining of petitioner, to still today and due arrears of salary from the date of joining till the date of custody i.e. 23.06.2015 to 11.10.2015.

IV. For further issuance of an appropriate writ order or direction in nature of Mandamus directing and commanding the concerned respondent not to humiliate or harass the petitioner on account of the illegal and baseless, concocted and fabricated F.I.R No. 260/2015 dated 11.10.2015 of Budha Colony Police Station (Patna).”

6. The petitioner’s counsel submits that there was specific direction in CWJC No. 2345 of 2018 earlier filed by petitioner to examine the case of the petitioner and if it was found to be similar to the case of Ranjit Kumar vs. the State of Bihar & Ors. (CWJC No. 16102 of 2016), then the relief was to



be granted to the petitioner as has been granted to Ranjit Kumar, and to proceed as per decision in the case of Ranjit Kumar (supra). The same, however, has not been done.

7. The petitioner's counsel further submits that this Court should again direct the authorities to consider the petitioner's case in light of the case of Ranjit Kumar (supra) and if it is found, that it is exactly identical, the relief which was granted to Ranjit Kumar should be granted to the petitioner and the authorities should be directed to proceed thereafter, as has earlier been directed in CWJC No. 2345 of 2018.

8. The submission of the petitioner's counsel, to say the least, is thoroughly misconceived. As taken note of above this writ petitioner had approached this Court earlier. This Court has already issued the same directions in CWJC No. 2345 of 2018, which are being prayed for in the instant proceedings. The said decision in CWJC No. 2345 of 2018 has attained finality *inter partes, qua* this Court.

9. If at all, the petitioner is aggrieved by the non-compliance of the order passed in CWJC No. 2345/2018, the recourse available to him was to ensure compliance of the order passed in the earlier writ proceedings by taking recourse to proceedings in accordance with law.



10. Even if, the petitioner's submission is true that no action has been taken pursuant to the earlier directions passed by this Court on the petitioner's earlier writ petition, that would not allow the petitioner to approach this Court again for issuance of the same direction. If the Court was to allow second writ petition, what would prevent the same petitioner from making a third writ petition, or more thereafter. Such an approach of filing successive writ petitions seeking the same relief; which has already been granted to the same petitioner in an earlier writ proceedings, cannot be countenanced. Once the order has attained finality *inter partes*, *qua* the High Court (this Court), and if the petitioner is aggrieved by non-compliance with the order passed in the earlier proceedings, it was open to the petitioner to invoke the appropriate jurisdiction for enforcement/compliance of the earlier order.

11. The application is thoroughly misconceived and is dismissed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	19.07.2022
Transmission Date	NA

