

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10949 of 2021

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Sanjay Kumar Son of Harendra Singh, residing at the house of Dharendra Singh, Panni Tanki, Bihta, District - Patna - 11.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Bihar Police Sub-ordinate Service Commission through its Secretary Santosh Mansan, B- Block, Raghunath Path, Danapur, District - Patna.
5. The Secretary, Bihar Police Sub-ordinate Service Commission, Santosh Mansan, B-Block, Raghunath Path, Danapur, District - Patna.
6. The Officer on Special Duty, the Bihar Police Sub-ordinate Service Commission, Santosh Mansan, B-Block, Raghunath Path, Danapur, District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha,
Mr. Pranav Kumar Jha, Advocates

For the Respondent/s : Mr. P.K.Verma AAG-3

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 05-10-2023 Heard learned counsel for the petitioner and learned counsel for the respondents

2. The petitioner seeks a direction to appoint him as Assistant Superintendent of Jail against the Ex-serviceman



quota, pursuant to Advertisement No. 01 of 2019, as contained in Annexure-1 to the writ petition. He participated in the process against the vacancies meant for Ex- serviceman (total 42). The selection process consisted of written competitive examination at two stages, namely, Preliminary Examination and Mains Examination.

3. Candidates 20 times the number of vacancies were to be declared successful at the Preliminary Examination for participating in the Mains Examination. Candidates 06 times the number of vacancies were to be declared successful at the Mains Examination for physical Evaluation Test. The petitioner's name, as per averment made in the writ petition, figured in the result published after the Mains Examination, wherein, 453 candidates were declared to have passed. Out of 453 candidates declared passed, 40 male candidates emerged successful, as per averments made in the writ petition. Other candidates, including the petitioner under the Ex-serviceman category, remained unsuccessful. They, however, were allowed opportunity to participate in the Physical Evaluation Test to be conducted on 12-04-2021 for appointment of Sub- Inspectors. It is not apparent from the averments made in the writ petition whether the petitioner has participated in the physical



Evaluation Test on 12-04-2021. It is, however, to be noted that the writ petition has been filed in June 2021, wherein, the allegations have been made of large scale irregularities in the process of selection. The writ petition has been filed two months after the date (12-04-2021) was fixed for physical Evaluation Test for recruitment of Sub- Inspectors, wherein, remaining unsuccessful Ex-serviceman, including the petitioner were allowed opportunity to participate. At least three months after the list of 40 selected candidates was published, the petitioner has filed the writ petition alleging all sorts of irregularities in the selection process; that also after having taken his chance in the process.

4. It is by now settled proposition of law that after having participated in the process of selection and taking a chance in the selection process, a candidate is estopped from raising an issue regarding the process of selection being unfair. The Court would also notice that the petitioner has made vague allegations of persons being unduly selected, though inferior in merit to the petitioner. He has also alleged that some Ex-serviceman candidates have been given a second chance in the current recruitment process contrary to the instructions issued by the Department of Personnel & Training on 14th August,



2014, (Annexure-9) which mandates that Ex-serviceman may be given only one chance to join a Government job. It is stated that 22 such candidates have finally been selected, though their status as Ex-serviceman for the purpose of joining Government job ceased after availing the benefits once. These 22 persons have not been named, making it impossible to ascertain the merits of this vague allegation in the writ petition. They have also not been impleaded as parties. The petitioner has also complained that the final result of the Written Examination declared 453 candidates selected for document verification. The same was clearly in excess of the number which could have been declared selected as per the Advertisement (six times the number of vacancies).

5. On consideration of these submissions, this Court would observe that the petitioner is a beneficiary of the result of the Mains Written Examination, wherein, all 453 candidates were declared successful. It is only, thereafter, when he has been declared unsuccessful, that he chose to challenge the declaration of the result of the Mains Written Examination, of which he was himself a beneficiary. It is not his case that he had come to know of all candidates being declared selected only after document verification.



6. In the circumstances, this Court would refer to the decision of the Hon'ble Apex Court in the case of ***Ramjit Singh Kardam and Others Sanjeev Kumar and Others*** reported in ***(2020) 20 SCC 209***, wherein, the Hon'ble Apex Court reiterated the settled legal proposition that a candidate who participates in the selection without a demur and takes a chance to get selected, cannot be permitted to turn around and challenge the criteria of selection, subject however to certain exceptions, which have been specified in the judgment itself. The instant case is not one which is covered by the exception.

7. The petitioner was very well knowing that 453 candidates had been declared successful in the Mains Written Examination. He, in fact, himself was in this list of successful candidates and only after he has been declared unsuccessful at the next stage, he chose to challenge the declaration of the result of the Mains Written Examination, of which he was himself a beneficiary. Even then he has waited for three months for challenging the recruitment process. It is to be noted that vague allegations have been made about 22 persons being illegally selected, without specifying any details of these 22 persons and also without impleading anyone of such candidate in the writ petition.



8. In the circumstances, this Court finds no merit in
the writ petition and the same is dismissed.

(Madhuresh Prasad, J)

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