

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16551 of 2013

Kanhaiya Singh Yadav S/O Nathuni Singh Yadav, Resident Of Village Rahari
P.O.- Debhalia, P.S. Ramgarh, District- Kaimur

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director General Cum-Inspector General Of Police, Bihar, Old Secretariat, Patna
3. The Secretary, Central Selection Board Constable Recruitment, Bank Harding Road, Patna
4. The Senior Superintendent Of Police, Bhabua, Kaimur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bauye Jee Jha B.J. Jha
For the State	:	Mr. Kamlesh Kishore, Ac to Sc 12
For CSBC (Resp. 3)	:	Mr. Sanjay Pandey, Adv. Mr. Vivek Anand Amrithesh, Adv. Mr. Binod Kumar Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 10-01-2023 1. Admittedly, the petitioner participated in the selection process for the post of Constable. The grievance of the petitioner is that the result of the petitioner was not declared. A counter affidavit has been filed and it is informed that the petitioner was not successful, as he fell below the cut off marks. Learned counsel for the petitioner submits that at least the petitioner ought to have been informed about his marks.

2. In a selection process, candidates who are successful, their result is declared. Since, the petitioner did not come within the cut off marks, he will be deemed to have not been successful. There is no process of reserve list.



3. In the case of **State of Uttar Pradesh vs. Karunesh Kumar & Ors. as reported in 2022 SCC Online SC 1706**, decided on 12-12.2013, the Supreme Court has held as under:

30. *“The aforesaid decision, in our considered view, may not have any application to the case on hand. The effect of the relevant rules is not considered therein, as the select list shuts the door to everyone other than the selected candidates. The aforesaid decision was in the context of the 1999 GO, however, as we have held that the 1978 Rules do not apply to the present recruitment, the aforesaid decision would not be of any service. Further, it is settled law that there is no vested right of the unsuccessful candidate to insist upon their consideration, in the absence of any such rule requiring for the preparation of a waiting-list.*

*This Court in the recent decision in **Vallampati Sathish Babu v. State of A.P. (Civil Appeal No. 2473 of 2022)** has held that:*

7.4 *In the present case, the final selection list of 33 candidates was prepared. Thereafter all the selected candidates were called for counselling, but one of the candidates did not report for counselling. The aforesaid event took place after the final selection list was prepared and published. As there was no*



requirement of preparation of a waiting list, the appellant claiming to be the next in the merit cannot claim any appointment as his name neither figured in the list of the selected candidates nor in any waiting list as there was no provision at all for preparation of the waiting list. Sub-rule (5) of Rule 16 is very clear. Therefore, the post remained unfilled due to one of the candidates in the final list did not appear for counselling and/or accepted the employment. Hence, that post has to be carried forward for the next recruitment.

7.5 The appellant could have claimed the appointment to the post which remained unfilled provided there is a provision for waiting list as per the statutory provision. In absence of any specific provision for waiting list and on the contrary, there being a specific provision that there shall not be any waiting list and that the post remaining unfilled on any ground shall have to be carried forward for the next recruitment. The appellant herein, thus, had no right to claim any appointment to the post which remained unfilled.

8.1 An identical question came to be considered by this Court in the case of Suresh Prasad (supra). In the said decision,



it is specifically observed and held that even in case candidates selected for appointment have not joined, in the absence of any statutory rules to the contrary, the employer is not bound to offer the unfilled vacancy to the candidates next below the said candidates in the merit list. It is also further held that in the absence of any provision, the employer is not bound to prepare a waiting list in addition to the panel of selected candidates and to appoint the candidates from the waiting list in case the candidates from the panel do not join. The aforesaid decision of this Court has been subsequently followed by the Andhra Pradesh High Court in the case of Samiula Shareef (supra) ”

4. In view thereof, no case for interference is made out.
5. The writ petition is dismissed accordingly.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 45

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