

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16298 of 2013

Subhash Kumar Son Of Late Kapildeo Mandal Residet Of Village - Sharan
Singh Tola, Post Office - Nauvagadhi, Police Station - Muffasil, District –
Munger Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Ministry of Home Affairs, Bihar,
Patna.
 2. The Director, Central Selection Board Of Constable, Compute Bhavan,
Jawahar Lal Nehru Marg, Patna -
 3. The Director General Of Police, Bihar, Patna
 4. The Inspector General Of Police, Munger
 5. The Superintendent Of Police, Munger
 6. The Dy. S.P. Bihar Police Computer Bhavan, Bailey Road, Patna
- Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Adv.
For the Respondent/s	:	Mr. Anil Kumar, Adv.
For the C.S.B.C.	:	Mr. Sanjay Pandey, Adv.
		Mr. Binod Kumar Mishra, Adv.
		Mr. Vivek Anand Amritesh, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

3 16-01-2023

1. Heard the parties.

2. The petitioner challenges the selection process for
the post of Constable whereby he was not selected.

3. Learned counsel for the petitioner submits that the
petitioner was a Home guard and he applied under the
advertisement dated 31.05.2012 for the post of Constable. He
was called for medical and during the physical evaluation test,
he has been declared failed mentioning that he had not
submitted his caste certificate on 14.05.2013. Learned counsel
submits that the petitioner earlier was a Home guard and he has



mentioned of being from E.B.C category. He had prayed for three days time to make available the caste certificate and he submitted his caste certificate on 13.05.2013 to one Manindra Sah but the same was not even noticed and he has been ousted from selection. In the result, which has been declared, it has been mentioned that sufficient number of Home guard candidates were not available and therefore their seats have been filled from non-home guard category. Learned counsel submits that as he was a member of the Home guard he should have been appointed on the said post.

4. Per contra, learned counsel appearing for the Central Selection Board submits that it is an admitted position that the petitioner did not produce the caste certificate during the physical evaluation test. He had submitted an application for receiving his caste certificate within three days. Thereafter his selection was cancelled on 14.05.2013 and was shown to have failed. The non-production of caste certificate has resulted his being ousted from the said category and it was necessary for him to produce the said certificate.

5. I have considered the submissions.

6. In the selection process, this Court finds that there was a separate independent category of Home guard personnel



to be selected for the post of Constable. The petitioner had participated as a Home guard as per his application form and he was called for physical evaluation test, where he has been shown to have passed the physical evaluation test in all categories but he has been shown to have failed. On the basis of a note of the concerned Dy. S.P. mentioning that he has not submitted his caste certificate, which is stated to be the reason for declaring him failed.

7. In the considered opinion of this Court, the same could not have been a ground to reject his candidature as for a Home guard, there is no requirement belonging to different categories. The person, who is in a Home guard category has to only show that he is a member of a Home guard. It is a different class altogether. It is not a case where under the reserved category of constables for EBC that the petitioner was being selected. Since the vacancies for Home guard is a separate category altogether, the petitioner was entitled to be considered and appointed as a constable in the quota reserved for Home guards. The post which was reserved for Home guard could not have been therefore shifted to other categories on the ground that there was non-availability of the Home guard specially when the petitioner was available.



8. As regards the requirement of submitting EBC certificate, the same even if submitted later on could not have effected the selection process of a Home guard for the post of constable. The record was called, wherein it is noticed that there are other educational certificates also mention the petitioner to be from OBC-1 category and also documents to show that he was a Home guard.

9. Having taken the aforesaid view, the writ petition stands allowed. The petitioner shall be considered against the vacancy reserved for Home guard category for the post of constable and shall be considered for the appointment. His appointment shall relate back from the date other similarly situated persons had been appointed. Of course the petitioner would not be paid salary and the same would be treated as notional but the service shall be counted from the same date as others.

10. The compliance shall be made within a period of two months. The original record is directed to be handed over to the counsel for the Board.

(Sanjeev Prakash Sharma, J)

amit/-

Item no.27

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