

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18678 of 2014

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Dheeraj Kumar S/o Lal Bihari Prasad Resident of Mohalla Nooranganj Near
Rauniyar Veshv Seva Sadan, P.S. Sasaram own, District Rohtas.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary Ministry of Personnel Public Grievance and Pension, New Delhi.
2. The Chairman, Staff Selection Commission, Govt. of India, Block No. 12, Central Office, Campus, Lodhi Road, New Delhi.
3. Regional Director C R, Staff Selection Commission, 21-23, Lawthar Road, Allahabad, Uttar Pradesh-211002

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pranav Kumar, Advocate
For the UOI	:	Mr.Ankit Kumar Singh, JC
		Mr.Radha Raman, SSC

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 02-08-2023

1. The present writ petition has been filed for directing the respondents to recommend the name of the petitioner for appointment on the post of constable in any police force, in pursuance to the advertisement published on 15.12.2012.

2. The brief facts of the case, according to the petitioner are that an advertisement was published in the newspaper on 15.12.2012, for filling up vacancies of constable in different armed forces/police forces, whereupon the petitioner had submitted his application under the category OBC. The petitioner is stated to have appeared in the physical examination



on 23.02.2013 and was declared fit, whereafter the respondents had issued admit card to the petitioner for appearing in the written exam. The petitioner is stated to have appeared in written test, held on 12.05.2013, at Bhagalpur and had passed with 69 marks, whereupon the petitioner was called for medical examination on 20.01.2014 at Bareilly and then the petitioner had appeared for the medical examination, where he was also declared fit.

3. The learned counsel for the petitioner has submitted that the cut-off marks for the candidates selected under OBC category in the naxal affected areas is 63 marks, whereas the petitioner is having 69 marks, however, he was not selected by the respondents, which is arbitrary and illegal.

4. Per contra, the learned counsel for the respondents has submitted by referring to the counter affidavit, filed in the present case that the petitioner had applied in pursuance to the aforesaid Advertisement dated 15.12.2012, whereafter he had appeared in the PET/PST and written examination and was declared qualified for appearing in the medical examination, purely on provisional basis, whereupon the petitioner had also appeared in the medical exam and was declared fit. It is stated that the final result was declared on



22.04.2014 and subsequently, the same was revised on 30.05.2014, according to which the petitioner is stated to have obtained 69 marks under the OBC category, pertaining to naxal/militancy area. It is further submitted that the cut-off marks of the last selected candidate of OBC category of general area for different CPOs for State Code 05 i.e. Bihar State is as follows:-

Bihar	'A' BSF	'B' CISF	'C' CRPF	'D' SSB	'E' ITBP	'F' Assam Rifle
OBC	77	82	70	78	73	73

5. It is thus submitted that the petitioner failed to find place in the list of selected candidates on account of his low merit and the marks obtained by the petitioner i.e. 69 marks being less than the marks obtained by the last selected candidate in CAPFs in general area against the vacancies allotted to the State of Bihar, hence there is no discrepancy in the petitioner having not been appointed. It is also submitted that though the petitioner claims that he had applied for naxal/militancy affected areas, however, the code required to be mentioned for the same is 52, whereas the petitioner had mentioned code 39 in column 50, meant for mentioning the code of naxal/militancy affected area. It is also stated that code 39 was not allotted to



any State/U.T.s as naxal/militancy code, therefore it was an invalid code for naxal/militancy affected area.

6. The learned counsel for the respondents has further submitted that it is the responsibility of the petitioner to go through the instructions and provisions contained in the Notice of the Examination. If the petitioner fails in doing so, he himself is responsible for non-compliance of provisions of Notice of the Examination for which respondents cannot be held responsible.

7. It is also submitted that it was very clearly mentioned in para 14 of the Notice of Examination under the heading "COMMISSION'S DECISION FINAL" that "The decision of the Commission in all matters relating to eligibility, acceptance or rejection of the applications, penalty for false information, mode of selection, conduct of examination(s) and interviews, allotment of examination centres, selection and allotment will be final and binding on the candidates and no enquiry/correspondence will be entertained in this regard."

8. The learned counsel for the respondents has further submitted that it is a well settled law, as has been held in a catena of judgments that the notice of the examination are binding both on the commission as well as on the applicant and



adherence to the rules and regulations are mandatory to preserve and protect the sanctity of the examination process. Reference has also been made to a similar case, decided by the Hon'ble Allahabad High Court, wherein a writ petition bearing writ petition No.40670 of 2013 has been dismissed, vide order dated 29.07.2013, in the following terms:-

“Therefore, the question whether the petitioners have deliberately used a particular code or it is a human error, cannot be examined here and in view of the facts of this particular case, it cannot be said with certainty that it is a case of sheer human error.

4. However, the fact remains that petitioners have failed to comply with the specific condition/instruction contained in the application form and once it is admitted that the form was not filled in the terms of the instructions, the application form has to be rejected and respondents, therefore, have not erred in law in rejecting the candidature of petitioners on account of their failure to comply with the requirement of instructions which specifically provide that the vacancies are available for candidates domiciled in State and reservation is also available for the candidates domiciled in naxal and militancy affected areas etc. Since the number of vacancies vis-a-vis the opted State and other conditions are connected



with the matter of selection, it is difficult to accept that whatever has been done by petitioners is mere human error and there is nothing deliberate.

5. In view of above, I do not find any merit in the writ petition. Dismissed."

9. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that though the petitioner had obtained 69 marks, however, the same is less than the marks of the last selected candidate of OBC category of general area i.e. 70 marks, hence the petitioner has rightly not been selected inasmuch as he has failed to qualify, thus, I do not find any merit in the present writ petition.

10. Accordingly, the present writ petition stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.09.2023
Transmission Date	NA

