

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2124 of 2019

Nisha Kumari W/o Rishi Kumar D/o Abhimanyu Rao R/o village Khaira gadh
ke piche ,Khaira district Jamui

... .. Petitioner/s

Versus

1. The State Of Bihar, through Chief Secretary Government of Bihar Patna
2. The Principal Secretary Personnel Administration Government of Bihar Patna Bihar
3. The Principal, Home Secretary, Government of Bihar Patna
4. The Secretary Bihar Police Sub ordinate Services Commission Bihar Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar, Advocate
For the Respondent/s	:	Mr. Shailesh Kumar, AC to GP-5
For the BPSSC	:	Mr. Sanjay Pandey, Advocate
		Mr. Nishant Kumar Jha, Advocate
		Mr. Vivekanand Amritesh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 17-10-2024

Heard Mr. Arbind Kumar, learned Advocate for the petitioner, Mr. Vivekanand Amritesh, learned Advocate for the Bihar Police Sub-ordinate Service Commission (hereinafter referred to as “Commission”) and Mr. Shailesh Kumar, learned AC to GP-5.

2. The petitioner, a candidate for the post of Sub Inspector in Advertisement No. 01 of 2017, having found eligible to the post of Sub Inspector she submitted requisite application and participated in the Preliminary Test and Mains Examination. On being successfully qualified in the said examination, she was called for in the Physical Evaluation Test.

3. The petitioner participated in the Physical



Evaluation Test held by the Commission on 25.09.2018. However, in the Physical Evaluation Test, the petitioner has shown to be disqualified on being found her height, less than the required one. The petitioner preferred her grievance before the Appellate Board. Fresh measurement was conducted, wherein, her height was measured before the Chairman of the Commission and found to be 157.4 cm, which was less than the required height i.e. 160 cm for female candidates of her category.

4. The learned Advocate for the petitioner contended that the measurement of the height was made by a digital machine and because of some glitches, the height of the petitioner could not be properly measured, causing serious prejudice to her right and entitlement. Adverting to the aforesaid fact, prayer has been made that if the petitioner shall be given a fresh chance before the Commission and her height be remeasured before any other higher authority, she would be satisfied.

5. A counter affidavit has been filed on behalf of the respondent no. 4. Learned Advocate for the Commission submitted that the Advertisement, in question, was published way back in the year 2017, whereupon, the entire selection process has proceeded and now the same has already come to an end. The successful candidates have already been appointed.



Thus, any order passed by this Court shall be uncalled for and would cause interference in the settled position. It is further contended that the petitioner having been found successful in the Preliminary Test and Mains Examination, she was called upon in the Physical Evaluation Test on 25.09.2018. The height of the petitioner was measured before the Officers of the rank of Dy. S.P/ S.P and it was found as 157.9 cm, which was less than the required height i.e. 160 cm. Referring to the Advertisement No. 01 of 2017, it is contended that the minimum height required for male candidate of General category (Unreserved), BC and EBC is 165 cm and for Female candidates of each category is 160 cm. It is further contended that on being dissatisfied, the petitioner approached before the Appellate Board, which was functioning directly under the Chairman of the Commission. The height of the petitioner was further re-measured before the Chairman of the Commission, but her height was found less than the required height and to be more specific as 157.4 cm and thus, the appeal has been rejected.

6. A decision of the learned Division Bench of this Court has also been placed before this Court passed in ***Ritu Kumari Vs. State of Bihar and Ors.*** in ***LPA No. 895 of 2014***, wherein, the learned Division Bench has observed that in case of any dispute with regard to the height, it is the Civil Court of



the competent jurisdiction where the person aggrieved can redress his/her grievance.

7. Having heard the learned Advocate for the respective parties and taking note of the admitted position that twice the measurement of the height of the petitioner was done and on both the occasion, the height of the petitioner has been found less than the required height. Moreover, the Physical Test or measurement or ability test is mandatory for selection of the candidate for such post. This Court is also conscious of the facts that the entire selection process have already completed and the selected candidates have already submitted their joining and they have been working on their respective posts. In all the aforesaid ground, this Court does not find any merit in the writ petition. However, in view of the order passed by the learned Division Bench of this Court, the petitioner is always at liberty to seek her remedy before the Civil Court of competent jurisdiction.

8. The writ petition stands dismissed.

(Harish Kumar, J)

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CAV DATE	NA
Uploading Date	21.10.2024
Transmission Date	NA

