

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22636 of 2012

=====

Arvind Kumar Son of Sri Ramesh Kumar Sharma Resident of Village Post-
Zainabad, P.S.- Dehina, District- Rewari Haryana at Present Residing At 9
Battalion, NDRF, P.S.- Bihta, District- Patna Bihar

... .. Petitioner/s

Versus

1. The Union of India, Ministry of Home Affairs, New Delhi.
2. The Director General, Border Security Force, BSF, 10 C.G.O. Complex,
Lodhi Road, New Delhi
3. The Commandant Staff, D.G. Border Security Force, Personnel Directorate-
Staff Section Block No. 10, 7th Floor, C.G.O. Complex, New Delhi
4. The Commandant, 9 Battallian, NDRF, Border Security Force. Bihta, Patna
Bihar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar, Advocate. Mr. Raj Kumar Rajesh, Advocate.
For the U.O.I.	:	Dr. Amitesh Kumar, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 28-06-2024

Heard Mr. Vijay Kumar, learned counsel along with

Mr. Raj Kumar Rajesh, learned counsel appearing on behalf of

the petitioner and Dr. Amitesh Kumar, learned counsel for the

Union of India.

2. The petitioner has sought for the following

reliefs, as prayed for in Para-1 of the writ petition, which are,

inter alia, reproduced hereinafter:

“(I) For issuance of a writ in the nature of
mandamus or any other appropriate writ / writs for
commanding and directing the Respondents authorities to
consider the name of Petitioner for permanent absorption on
the post of Sub- inspector junior Engineer (Electrical) in
Border Security Force (in short to be called as BSF) as
having requisite a qualification and eligibility for the above



stated post, petitioner is also serving on the above stated post, on deputation basis, and further some similarly situated employee has been permanently absorbed on the above stated post, but petitioner's name is not being considered for permanent absorption due to obvious consideration despite having requisite qualification.

(II) For further commanding and directing the Respondent authorities to declare the petitioner the most suitable and eligible candidate for post of sub- inspector junior Engineer (Electrical) in BSF as petitioner is having requisite qualification and eligibility and also serving on the above stated duly sanctioned post on deputation.

(III) For further commanding and directing respondent authorities to not make any hindrance in the permanent absorption of petitioner the post of Sub-inspector junior Engineer (Electrical) as other similarity situated employee has been given benefit of permanent absorption on the post of Sub-inspector/ junior engineer (electrical), but due to obvious considerations and oblique reasons petitioner is not being provided such facility.

(IV) For further commanding and directing the Respondent authorities to provide all the legal benefits of permanent absorbed employee to petitioner for which petitioner is legally entitled after permanently absorption on the post of Sub- inspector/junior engineer (Electricity) considering the entire facts and circumstances.

(V) For any other relief / reliefs for which this petitioner is found legally entitled in present facts and circumstances of the case.”

3. Brief facts of the case are that the petitioner was enrolled as Head Constable (Radio Operator) in Border Security Force (hereinafter referred to as ‘BSF’) w.e.f. 04.10.2000. The petitioner was allotted Regt. No. 001240030 and had undergone basic training at STC, BSF, Hazaribagh w.e.f. 09.04.2001 to 18.10.2001. As per the service records, the educational qualification of the petitioner is B.Sc and Diploma in Electrical Engineering. The case of the petitioner is that BSF is having separate cadre of BSF Engineering Setup and to fill up the vacancies of BSF Engineering Setup (Electrical), Recruitment



Rules for BSF (Engineering/Electrical) Group-B and C posts recruitment Rules 1999 were notified on 25th October, 1999 and the criteria for filling up the posts were enumerated therein. Following the said Rules and the petitioner having fulfilled all the eligibility criteria, a panel was prepared and communicated on 02.04.2012 along with other eligible candidates after obtaining 'No Objection Certificate', 'Medical Certificate' for absorption on the post of Sub-Inspector / Junior Engineer (Electrical) on sanctioned post and same was sent to 9th Battalion, NDRF, BSF HQ on 25.04.2012.

4. Learned counsel appearing on behalf of the petitioner has informed that a decision for permanent absorption in BSF Engineering Cadre was considered and a DSC was held on 12.03.2009 and three Head Constables including the petitioner were found 'FIT' for appointment as SI/JE (Electrical) on deputation.

5. He further submitted that in Para-8 of the counter affidavit, respondents have admitted that Group 'B' posts Recruitment Rules – 2012 were notified and formally circulated to all concerned on 26.04.2012, which superseded the previous BSF (Engineering/Electrical) Group 'B' posts Recruitment Rules – 1999.



6. The petitioner having become eligible claims for permanent absorption to the post held by him on deputation. However, in spite of the admitted status of the petitioner, the respondents have not considered the claim of the petitioner on the principle that a deputationist has no right to be absorbed.

7. Learned counsel further submitted that the respondents have made clear statement in Para-31 of their counter affidavit that the process of filling 40% of post through promotion of the Head Constable (Tech) to the post of SI/JE(Elect) is under process. However, till date, in spite of the writ petition being pending for almost 12 years, the petitioner has not been communicated, as to what decision has been taken in light of the information given in Para-31.

8. In these background, learned counsel submitted that the petitioner has instructed him that he seeks to file a detailed representation before the concerned authority of BSF to consider his case as the the respondents have admitted his status for being absorbed on the permanent post.

9. Considering the aforesaid submission, the petitioner, if so advised, may file a detailed representation before the appropriate authority who is directed to consider the representation of the petitioner considering the fact that they



have admitted in Para-31 of the counter affidavit that the process of absorption has already been initiated and in spite of lapse of 12 years, no such communication has been made to the petitioner. In case, the petitioner has already been given status as claimed in the present writ petition, then in that case, authority must take steps to give him all the consequential benefits, if not already paid, within a period of six weeks from the date of representation or communication of this order.

10. It is made clear that the order has been passed in presence of the learned counsel appearing on behalf of the Union of India and he has ensured that he shall forthwith communicate to the authority concerned for not making further delay.

11. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.07.2024
Transmission Date	N.A.

