

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8194 of 2018

1. Shailesh Kumar Dubey and Anr Son of Bikrama Prasad Dubey @ Vikrama Prasad Dubey Resident of Village- Srinagar, P.O. Langarpura, P.S. Mairwa, District-Siwan.
2. Manoj Ram @ Manoj Kumar Ram Son of Shree Kishan Ram @ Shrikrishana Ram Resident of Village- Sultanpur, P.O. Baghibazar, P.S. Kateya, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Inspector General of Police, Patna, District- Patna.
3. The Deputy Inspector General of Police, Patna Range, Patna , District- Patna.
4. The Deputy Inspector General of Police, Munger Range, District- Munger.
5. The Senior Superintendent of Police, Patna, District- Patna.
6. The Superintendent of Police , Begusarai, District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Nityanand Mishra, Adv
For the Respondent/s	:	Mr.Manish Kumar -GP-4

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 10-09-2024 Heard learned counsel for the petitioners and learned counsel for the State.

2. The present writ petition has been filed for directing the respondents to appoint the petitioners as constable vide advertisement No. 01/2004/02/2004/03/2004 in which the petitioners have duly applied and has completed all the process successfully and the petitioners are quite similarly situated candidate like appellants in L.P.A No. 831/2009 (Ajay Kumar and others Vs. The State of Bihar & Ors) which was disposed off on 28.06.2011 by a Division Bench of this Hon'ble Court and against which S.L.A. (C) No. 13998/2015 (Bablu Kumar



Singh & Anr. Vs. The State of Bihar & Ors and other analogous cases) has been preferred, which is still pending before the Hon'ble Apex Court.

3. Learned counsel for the petitioners submits that after publication of the above mentioned advertisement for the post of Constable in Bihar Military Police/Civil Police/District Police in different districts, petitioners have applied for the said post. Petitioner No. 1 has applied for post in Patna District whereas Petitioner No. 2 has applied for the post in Begusarai District. It transpires to this Court that the petitioner No. 2 belongs to Schedule Caste category. It has been further pleaded that petitioners have academic qualification as Intermediate pass. They have passed Matriculation Examination in the year 2001 and 1997 respectively and Intermediate Examination in the year 2003 and 1999 respectively. It has also been mentioned that petitioner no. 1 has also got basic training from Central Training Institute Bihar Home Guard, Bihta, Patna and in this regard certificate has also been issued on 14.12.2017 in favour of the petitioner no. 1. The specific pleading has been made that the petitioners participated in the physical test and they were declared successful, and thereafter, verification was made but appointment letter has not been issued to them by the authority.



Another allegation has been imposed upon the respondents that appointment letters have been issued on the basis of pick and choose method. It has been pleaded further that the case of the petitioners are similar to the case of the appellants of L.P.A. 831 of 2009 and S.L.A. (C) No. 13998/2015 which are still pending before the Apex Court for its kind consideration.

4. Counsel for the State on the other hand submits that since the matter of the petitioners are related to the District of Patna and Begusarai, therefore, two counter affidavits have been filed. One counter affidavit has been filed by Superintendent of Police, Patna and another has been filed by Superintendent of Police, Begusarai i.e. by Respondent No. 5 and Respondent No. 6 respectively. Counsel further submits that it has been categorically stated in the Counter affidavit that petitioner no. 2 was candidate of Schedule Caste, Non Home Guard Category. The cut-off marks for the Schedule Caste Category was 12 marks and cut-off date of birth was 20.08.1976 but those candidates who were born on or before 20.08.1976 has to be selected from the merit list but since the date of birth of the petitioner was 03.01.1980, so he could not find place in the final list.

5. Learned counsel further submits that in the counter



affidavit filed by the Respondent No. 5, it has been categorically mentioned that petitioner no. 1 has not secured minimum cut-off marks i.e 15 marks in physical examination and his date of birth is 10.12.1985 is also beyond the cut off date i.e 15.10.1982 and it is due to these reasons, the petitioners could not be selected and their names could not be figured in the final list and therefore, their appointment letters were not issued.

6. After hearing the parties, particularly after going through the counter affidavits filed by the Superintendent of Police, Patna and Superintendent of Police, Begusarai, it transpires to this Court that petitioner No. 1 does not possess eligibility regarding date of birth as well as he has not obtained minimum cut-off marks required for the post of Constable Recruitment and petitioner no. 2 does not fulfill the eligibility criteria regarding date of birth and these are the reasons due to which they were not selected.

7. In this view of the matter, this Court is not inclined to interfere in the merit list, and hence, the present writ petition stands dismissed.

(Dr. Anshuman, J)

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