

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15296 of 2022

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Kavita Kumari D/o Sri Lalit Kumar Nishad, Resident of Sikandarpur Kundal,
Near R.S. College, P.O. and P.S.- Bhagwanpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Department of Home, Govt. of Bihar, Old Secretariat, Patna.
3. The Director General of Police, Sardar Patel Bhawan, Jawahar Lal Nehru Marg, Patna.
4. The Central Selection Board of Constable, 6th Floor, Sardar Patel Bhawan, Jawahar Lal Nehru Marg, Patna through its Chairman.
5. The Chairman, Central Selection Board of Constable, 6th Floor, Sardar Patel Bhawan, Jawahar Lal Nehru Marg, Patna.
6. The Officer on Special Duty, Central Board of Constable, 6th Floor, Sardar Patel Bhawan, Jawahar Lal Nehru Marg, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bipin Bihari Singh, Advocate
For the State	:	Mr.M. Nasrul Huda Khan (Sc 1)
		Ms. Babita Kumari, AC to SC-1
For CSBC	:	Mr. Sanjay Pandey, Advocate
		Mr. Binod Kumar Mishra, Advocate
		Mr. Vivek Anand Amritesh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date-12-03-2014

The present writ petition has been filed seeking the following relief:-

“1.That, the present petition is for setting aside the order issued by Officer on Special Duty, Central Selection Board for Constable vide Memo No. 1071 dated 18.08.2022 through which her candidature was refused by virtue of mismatch of category after issuance of Admit



Card and allow the petitioner to appear in written and physical examination.

The petitioner further prays for issuance of direction to respondents for consideration, adjudication and decision in light of law reflected by issuing formal letter of selection/ appointment under Extremely Backward Category (EBC) after judging suitability, seniority and merit position in seniority list, which are the basic criteria for selection/ appointment after correction, if needed as she cannot be allowed to suffer for fault and lapses of concern/competent authorities.”

2. At the outset, the learned counsel for the petitioner has submitted that merely on account of category mismatch, the candidature of the petitioner has been cancelled, hence the present case is a fit case where the respondents should be directed to allow the petitioner to participate in the selection process.

3. *Per contra*, the learned counsel appearing for the respondent-Central Selection Board of Constable has submitted by referring to paragraph no.11 of the counter affidavit that the petitioner had filled the application form wherein she had mentioned her reservation category as Backward Class, however, at the time of verification of documents, she could not produce Backward Class Category



certificate, hence her candidature was disqualified due to mismatch in application form with original documents.

4. The learned counsel for the respondent-Board has relied upon a judgment of this Court, rendered in the case of ***Jyoti Jaiswal vs. State of Bihar & ors.***, reported in ***2021(3) PLJR 489***, to submit that no relief can be granted to a candidate, who has incorrectly/falsely filled up an application form by wrongly stating the reservation category.

5. The aforesaid aspect of the matter has not been disputed by the learned counsel for the petitioner.

6. I have heard the learned counsel for the parties and perused the materials on record. At the outset, it would be relevant to refer to paragraph nos. 8, 9, 12 and 13 of the aforesaid judgment, rendered in the case of ***Jyoti Jaiswal*** (supra), which are reproduced hereinbelow:-

“8. The learned counsel for the BPSSC has further submitted that the prelims. examination was conducted in between 11.03.2018 to 15.04.2018 and the petitioner had been declared to have passed under the Extremely Backward Class category, whereafter the mains examination was held on 22.07.2018 and again, the petitioner was shown to have passed under the Extremely Backward Class category, in the result published on 06.08.2018, whereupon, the physical test was held on 28.09.2018, however, during the course of verification of



*documents, the petitioner could not produce the extremely backward class certificate, hence, the petitioner was disqualified on account of the following reason "mismatch in application form with original documents". The learned counsel for the BPSSC has further submitted that on account of the aforesaid reason, the representation of the petitioner has stood rejected by the impugned order dated 15.03.2019. It has also been stated that the final result has already been published by the Respondent-BPSSC on 09.03.2019 wherein 1665 candidates have been declared successful out of 1717 vacancies and 52 vacancies have remained unfilled on account of non-availability of suitable scheduled caste candidates. Thereafter, the BPSSC vide memo dated 17.03.2019 has also sent the recommendation of the successful candidates to the concerned Department for appointment on the post of Police Sub-Inspector, whereafter the appointments have also been made, hence, the entire selection process has already stood over long back. It is submitted that thereafter, a fresh selection process had also been initiated and the same has also been completed. The learned counsel for the BPSSC has also submitted that the judgment referred to by the learned counsel for the petitioner rendered in the case of **Ram Kumar Gijroya** (supra) is distinguishable in the facts and circumstances of the present case inasmuch as the case in hand before the Apex Court was with regard to non-submission of the OBC certificate within the cut-off date mentioned in the advertisement whereas in the present case, the petitioner has falsely mentioned her*



*class/caste category as Extremely Backward Class instead of Backward Class, hence, the present case is a case of furnishing of wrong documents as well, thus, her candidature has itself been rendered invalid in view of the terms and conditions stipulated in the advertisement no. 1 of 2017. In this regard, the learned counsel for the BPSSC has referred to a judgment rendered by the Hon'ble Division Bench of this Court in the case of **Central Selection Board of Constable vs. Raj Kumar**, reported in 2017(1) PLJR 599, paragraph nos. 11, 12 and 14 whereof are reproduced hereinbelow: -*

"11. Sri Rajendra Prasad Singh, learned Senior Counsel, then, raised the plea that the petitioners, having been permitted, pursuant to direction, to sit in the preliminary test and participate in interview, it is not open to the Central Selection Board (Constable Recruitment) to as such cancel the candidature. The answer to this is to be found in the case of T. Jayakumar v. Gopu sincerely reported in (2008)9 SCC 403; and in particular paragraph 12 thereof which reads as such:

"12. We are not aware of any principle of law under which once a candidate is allowed participation in the selection process, the selection authority is precluded from examining whether his application was complete, in order, within time or otherwise acceptable. A defect in the application form that renders the candidate ineligible might



be overlooked in the initial screening and as a result he may be called for interview and may get a chance to take part in the selection process but that alone does not mean that the candidate cannot be held ineligible for selection at a later stage once the defect in the application comes to light."

12. Thus, in law, we find that the writ petitioners having given a wrong declaration in his application form, which he could not be substantiated by original document, makes their candidature itself invalid. It is a case of wrong categorization which is material for the selection process and become more material when it comes to stage of appointment.

14. Thus, we allow this Review Application and recall our judgment and order dated 26.02.2015, passed in Letters Patent Appeal No. 1221/2012, and consequently, we would not interfere with the writ courts order which dismisses the writ petition. The appeal would thus stand dismissed."

9. The learned counsel for the BPSC has also relied on some other judgments, which are being enumerated herein below along with their relevant paragraphs: -

*(i) (2011)12 SCC 85 (**Bedanga Talukdar vs. Saifudaullah Khan & Others**), paragraphs no. 29 to 32 whereof are reproduced hereinbelow: -*

"29. xxx xxx xxx.

30. A perusal of the advertisement in this case will



clearly show that there was no power of relaxation. In our opinion, the High Court committed an error in directing that the condition with regard to the submission of the disability certificate either along with the application form or before appearing in the preliminary examination could be relaxed in the case of Respondent 1. Such a course would not be permissible as it would violate the mandate of Articles 14 and 16 of the Constitution of India.

31. In our opinion, the High Court was in error in concluding that Respondent 3 had not treated the condition with regard to the submission of the certificate along with the application or before appearing in the preliminary examination, as mandatory. The aforesaid finding, in our opinion, is contrary to the record.... .

32. In the face of such conclusions, we have little hesitation in concluding that the conclusion recorded by the High Court is contrary to the facts and materials on the record. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement. In the present case, no such rule has been brought to our notice. In such circumstances, the High Court could not have issued the impugned direction to consider the claim of Respondent 1 on



the basis of identity card submitted after the selection process was over, with the publication of the select list."

(ii) (2005)7 SCC 177 (**A.P. Public Service Commission vs. Koneti Venkateswrlu & Others**), paragraph no. 7 whereof is reproduced hereinbelow: -

"7. We are unable to accept the contention of the learned counsel for the first respondent. As to the purpose for which the information is called for, the employer is the ultimate judge. It is not open to the candidate to sit in judgment about the relevance of the information called for and decide to supply it or not. There is no doubt that the application called for full employment particulars vide column 11. Similarly, Annexure III contained an express declaration of not working in any public or private employment. We are also unable to accept the contention that it was inadvertence which led the first respondent to leave the particulars in column 11 blank and make the declaration of non-employment in Annexure III to the application. The application was filled on 24.7.1999, the examination was held on 24.10.1999, and the interview call was given on 31.1.2000. At no point of time did the first respondent inform the appellant Commission that there was a bona fide mistake by him in filling up the application form, or that there was inadvertence on his part in doing so. It is only when the appellant Commission discovered by itself that there was suppressio veri and suggestio



falsi on the part of the first respondent in the application that the respondent came forward with an excuse that it was due to inadvertence. That there has been suppressio veri and suggestio falsi is incontrovertible. The explanation that it was irrelevant or emanated from inadvertence, is unacceptable. In our view, the appellant was justified in relying upon the ratio of Kendriya Vidyalaya Sangathan [(2003)3 SCC 437 : 2003 SCC (L&S) 306] and contending that a person who indulges in such suppressio veri and suggestio falsi and obtains employment by false pretence does not deserve any public employment. We completely endorse this view."

(iii) 2013(4) PLJR 1 (DB) (Anil Kumar vs. The State of Bihar & Ors.), paragraphs no. 4 to 6 whereof are reproduced hereinbelow: -

"4. The appellant approached this Court under Article 226 of the Constitution for a direction to the respondent State of Bihar to appoint the appellant as a constable. According to the appellant, pursuant to the advertisement published on 11th December, 2009, he had applied for appointment as constable in Bihar Military Police/Bihar Police. The appellant applied for such appointment as Extremely Backward Class candidate but he could not produce the certificate of Extremely Backward Class. His candidature was, therefore, rejected. Before the learned Single Judge the appellant



raised the contention that since he belonged to a Backward Class community and had produced the certificate to that effect, the respondents should have considered his case as a Backward Class candidate. The learned Single Judge has rejected the contention and has dismissed the writ petition. Therefore, this Appeal.

5. There is no dispute that the claim made by the appellant in the application form was not supported by the requisite document. The contention that the appellant ought to have been treated as a Backward Class candidate irrespective of the contrary information given by him in the application has rightly been rejected by the learned Single Judge.

6. No case for interference is made out."

*12. This Court, on the contrary, finds that the present case is squarely covered by the judgments rendered by the learned Division Bench of this Court in the case of **Central Selection Board of Constable vs. Raj Kumar** (supra) and in the case of **Anil Kumar** (supra) as also by the one rendered by the Hon'ble Apex Court in the case of **Bedanga Talukdar** (supra). This Court, upon having considered the submissions advanced by the learned counsel for the petitioner, finds that the petitioner had filled the wrong Class/caste category in the application form, thus she has engaged in suppressio veri and suggestio falsi inasmuch as if the petitioner was knowing that she has applied under the EBC category instead of*



*the BC category, nothing had prevented her from either bringing the said fact to the notice of the authorities at the time of sitting in the prelims. examination or the mains examination itself or having not at all appeared in the prelims. examination or the mains examination as an EBC category candidate knowing fully-well that she belongs to the BC category, hence, such a person does not deserve any sympathy. In this connection, reliance is placed on a judgment rendered by the Hon'ble Apex Court in the case of **A.P. Public Service Commission** (supra).*

13. Last but not the least, this Court finds that the petitioner had taken a chance and waited till the last moment i.e. till the respondent-BPSSC had itself discovered that the petitioner has engaged in suppressio veri and suggestio falsi inasmuch as she had furnished the wrong class/caste category in the application form. It would be relevant to mention here that another instance of suppression and twisting of facts is apparent from the pleadings made in the writ petition to the effect that the petitioner, in her application dated 17.09.2018, annexed as Annexure-5 to the writ petition, has stated that when her certificates were examined by the respondent authorities then she came to know that the class/caste category mentioned in the application form is not tallying with the caste certificate, but it would be apparent from paragraph no.11 of the counter affidavit filed on behalf of the Bihar Police Subordinate Service Commission that the documents were verified only on 28.09.2018, the date on which physical evaluation test was being held, hence,



obviously, the petitioner is not speaking the truth and has not approached this court with clean hands.”

7. Having regard to the facts and circumstances of the case, this Court finds that the present case is a case of category mismatch, inasmuch as the petitioner had mentioned her reservation category in her application form as backward class, however, at the time of verification of documents, she could not produce Backward Class Category Certificate, thus her candidature has rightly been disqualified. The present case is squarely covered by the judgment rendered by the learned Division Bench of this Court in the case of **Anil Kumar** (supra) as also by the one rendered by this Court in the case of **Jyoti Jaiswal** (supra), hence, this Court finds that there is no merit in the present writ petition.

8. Accordingly, the present writ petition stands dismissed.

(Mohit Kumar Shah, J)

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CAV DATE	NA
Uploading Date	27.03.2024
Transmission Date	NA

