

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1422 of 2019

In
Civil Writ Jurisdiction Case No.8907 of 2015

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Kalpana Kumari, D/o Shri Kameshwar Sah Resident of village- Bishanpur-
Shivram, P.O. and P.S.- Balua Bazar, District- Supaul.

... .. Appellant

Versus

1. The State of Bihar.
2. The Director General of Police Patna, Bihar, New Secretariat, Baily Road,
Patna-1.
3. The Senior Superintendent of Police Patna, District- Patna.
4. The Chairman, Central Selection Board of Constable, Bihar, Patna.
5. The Secretary, Central Selection Board of Constable, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Awadhesh Kumar Mishra, Advocate
For CSBC	:	Mr. Sanjay Pandey, Advocate
		Mr. Binod Kumar Mishra, Advocate
		Mr. Vivek Anand Amritesh, Advocate
For the Respondent/s	:	Mr. Prabhat Kumar Verma, AAG-3
		Mr. Saroj Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 13-09-2024

Ref: I.A. No. 01 of 2020

Heard I.A. No. 01 of 2020 for condonation of
delay. There is a delay of about 11 days in filing L.P.A. No.
1422 of 2019. For the reasons stated in the application read with
the affidavit, delay of about 11 days in filing L.P.A. No. 1422 of
2019 stands condoned.



2. Accordingly, I.A. No. 01 of 2020 stands allowed.

3. The core issue involved in the present *lis* is that the Appellant's height measurement was measured with different measurements on different dates. Taking note of the aforementioned issue on 30th August, 2024, we have passed an order, which reads as under:

“Matter was heard on more than one occasion. Today, Central Selection Board of Constable, Bihar, Patna (for short Board) have furnished in a sealed cover relating to height measurement of the appellant and they have recorded on 20th August, 2024 as 154.6 cm.

*2. Appellant was a candidate for the post of Constable, her candidature was not considered on the sole ground that she is not fulfilling the height measurement standard and it was fixed at 155 cm. She was subjected to height measurement on 17.04.2015 and Board authorities have recorded 154.3 cm. Feeling aggrieved by the height measurement of the Appellant, Appellant preferred appeal before the Appellate Authority. The Appellate Authority recorded height measurement as 153.2 cm on 20th April, 2015. Appellant, on her own, subjected for height measurement before the Patna Medical College and Hospital, Patna (for short PMCH) on 23.06.2015 and they have recorded 156 cm. Resultantly, the present *lis* has been cropped up.*



3. The learned Single Judge has rejected the grievance of the appellant. We have directed the appellant to be subjected to once again for height measurement in the PMCH and she was subjected to height measurement on 15.07.2024 and it has been recorded as 155.5 cm.

4. Board was not happy with our order asking the appellant to get height measurement through PMCH, resultantly we have directed the Board to examine the height of the appellant once again. They have recorded on 20th August, 2024 to the extent that her height is 154.6 cm. On four occasions, appellant was subjected to height measurement and it varies from time to time. Patna Medical College and Hospital's opinion of the height is concerned, she fulfills requisite eligibility of height standard for Constable to the extent that they have recorded 156 cm on 23.06.2015 and 155.5 cm on 15.07.2024. Board has examined the Appellant on three occasions and it varies from time to time as indicated supra. In order to overcome technicality or discrepancy in measuring height of the appellant on all the three occasions, Board have recorded lesser than the stipulated height measurement. On the other hand, Patna Medical College and Hospital, Patna have recorded above the eligibility criteria. We have to take lenient view that appellant fulfills the requisite height measurement for the post of Constable.

5. At this stage, learned counsel for the



Board submitted that appellant is a candidate for recruitment to the post of Constable under BC-F-NHG category and she has secured 90 marks, whereas the last selected candidate under BC-F-NHG category has secured more than 90 marks. In this regard, he is hereby directed to furnish complete Chart relating to cut off marks irrespective of general category and other categories on the next date of hearing so as to ascertain whether appellant fulfills the merit with reference to last selected candidate under unreserved category / woman category / BC-F-NHG category or not?

6. The sealed cover produced by the Board is reseald and it would be handed over to the learned counsel for the Board during the course of the day.

7. Re-list this matter on 13.09.2024.”

4. Respondent Board have filed 2nd Supplementary Counter Affidavit on behalf of Respondent Nos. 4 and 5 (Central Selection Board of Constable) in which para - 5 and 6 are relating to Home Guard and Non Home Guard Category. The Appellant would fall under the Non-Home Guard Category. Her candidature was required to be considered under BC Category. The Respondent Board have taken a contention that Appellant has secured 90 marks, whereas the cut-off marks for



BC (Female) is 111 marks and BC (Women) - 3% cut-off marks is 105. On the other hand, Appellant had secured 90 marks. Therefore, even her height measurement is taken into consideration that she fulfills the prescribed height, still she is not within the zone of consideration under BC (Female) and BC (Women)-3% Category in view of the fact that cut-off marks is 111 and 105, respectively.

5. Accordingly, the present L.P.A. No. 1422 of 2019 stands dismissed. Pending I.As., if any, stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2024
Transmission Date	NA

