

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1560 of 2021

Neeraj Kumar @ Niraj Kumar Son of Ramesh Sharma Resident of Village-
Karouta, P.s.- Parasbigha, District- Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Home Affairs, Patna, Bihar
2. The Secretary Department of Home Affairs, Patna, Bihar
3. The Inspector General of Police, Darbhanga, Bihar
4. The Chairman, Central Selection Board of Constable, Patna, Bihar
5. The Superintendent of Police, Saharsa, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Sr. Advocate with Mr. Nilesh Sinha and Mr. Manish Kumar Singh, Advocates
For the State	:	Mr. Anil Kumar, AC to SC 8
For the CSBC	:	Mr. Sanjay Pandey, Adv. Mr. Binod Kumar Mishra, Adv. Mr. Vivek Anand Amritesh, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 04-02-2025

Heard Mr. Rajesh Kumar Singh, learned Senior Advocate for the petitioner along with Mr. Nilesh Sinha, learned Advocate. The State is represented through Mr. Anil Kumar, learned Advocate. Mr. Binod Kumar Mishra, learned Advocate appears for the Central Selection Board of Constable.

2. The petitioner is aggrieved with the Office Order as contained in Memo No. 6911 dated 10.10.2019, whereby the representation of the petitioner filed in the light of the order dated 27.06.2019 passed in CWJC No. 275 of 2019 for his joining on the post of Constable came to be rejected. The petitioner also seeks a direction to hold and declare that the action of the respondent authorities in not reinstating the



petitioner on the post of Constable in Saharsa District Police is bad in law and thus he prayed that he may be reinstated on the same post from which he was discharged vide order dated 26.06.2013 bearing Order No. 677 of 2013.

3. Learned Senior Advocate for the petitioner narrating the short facts of the case in hand has contended that the petitioner on being duly qualified in the selection was appointed as a Home Guard in the year 2008. While the petitioner was working as a Home Guard, on account of some allegation of indiscipline, an enquiry was conducted and a so called departmental proceeding was initiated. In the meantime, the petitioner on being found eligible for appointment to the post of Constable in Bihar Police Force submitted his application in terms of Advertisement No. 2/2009. The petitioner on being found eligible was selected on the post of Constable in Saharsa District Force vide District Order No. 1642 of 2011 dated 15.09.2011. The petitioner joined on the post of Constable and he has been allowed to discharge the duty as a Constable. It would be worth mentioning that, while the petitioner was awaiting the final result pertaining to selection of Constable, he along with nine others were discharged from their service as Home Guard on the alleged charge of indiscipline.



The aforesaid order has been corresponded to the Superintendent of Police, Saharsa by the Central Selection Board and all on a sudden on 26.06.2013, the petitioner along with 9 others were discharged from their services as Home Guards vide Memo No. 118 dated 10.03.11.

4. The petitioner along with other identically situated persons, who were discharged from their respective services of Home Guards by the afore noted Order dated 10.03.2011, preferred writ petitions before this Court bearing, CWJC No. 574 of 2017, CWJC No. 15564 of 2012 and CWJC No. 275 of 2019. This Court having considered the submissions advanced on behalf of the petitioner and other identically situated persons held that the respondent could not have removed the petitioner as well as other candidates on the basis of allegation and by way of punishment under Rule 7(4) of the Bihar Home Guards Rules, 1953 and accordingly quashed the impugned order. Upon the order of discharge from the post of Home Guard being quashed by this Court, the petitioner and other candidates were reinstated on their post of Home Guard vide District Order No. 03/2020 dated 12.02.2020 passed by the District Commandant, Bihar Home Guard Battalion, Jehanabad.

5. Learned Senior Advocate for the petitioner would,



thus contended that once service of the petitioner has been reinstated on the post of Home Guard, thus the basis and the impediment which led to passing of the order of discharge from the post of Constable is no more in existence. In the aforesaid premise, the petitioner rendered the representation dated 17.08.2019 addressed to the Superintendent of Police, Saharsa seeking therein his reinstatement on the post of Constable. In the aforesaid representation, plea has also been taken that the identically situated one Prince Kumar Singh, who was also discharged along with the petitioner while working as a Home Guard and later on his order of discharge along with the petitioner had been quashed by this Court in the afore noted writ petition, has been reinstated on the post of Constable. Nonetheless, while rejecting the claim of the petitioner, the superintendent of Police, Saharsa though has taken the reference of identically situated Constable, Prince Kumar Singh but surprisingly the claim of the petitioner for reinstatement on the post of Constable has been rejected only on account of the fact that his appointment on the post of Home Guard had already been dispensed with and from the record it appears that the appointment of the petitioner took place by the Chairman, Central Selection Board of Constable, while the petitioner was



not holding the post of Home Guard.

6. Learned Advocate for the petitioner lastly contended that the identically situated Prince Kumar Singh had approached this Court in CWJC No. 465 of 2015 on being aggrieved by the order of discharge from the post of Constable which matter was heard along with CWJC No. 15564 of 2012 and this Court vide its order dated 13.02.2019 has been pleased to hold the impugned order of discharge from the post of Constable as unsustainable and quashed the same.

7. *Per contra*, learned Advocate for the State submits that the petitioner applied for the post of Constable under the category of Home Guard candidate and he appeared in the written examination as well as Physical Evaluation Test. The physical result of the successful candidates was published by the Board on 10.08.2011 in which he was declared successful under Home Guard category. The Board issued the recommendation letter and directed him to join in Saharsa District Police Force vide Memo No. 373 dated 22.08.2011, in consequent to the final result published on 10.08.2011; nonetheless, the petitioner had already been discharged from his post of Home Guard on 10.03.2011 itself, much prior to his selection and appointment on the post of Constable in Home



Guard Category. Had this fact been brought to the knowledge of the Selection Authority, the petitioner could not have been selected as he was not a Home Guard when the final result was published.

8. This Court has given anxious consideration to the submissions advanced on behalf of the learned Advocate for the respective parties and also perused the materials available on record. It is the admitted position that the date on which the petitioner had submitted his application for selection to the post of Constable in the Home Guard category, he was holding the post of Home Guard. The order of discharge has been passed on 10.03.2011, though obvious prior to the issuance of selection and appointment to the post of Constable vide Memo No. 357 dated 10.08.2011. Thus, one thing which is evident from the materials available on record is that there was no suppression or misrepresentation at the time of filing of the application for selection of Constable. It is also worth while to mention that identical issue has come up for consideration before this Court in the case of Prince Kumar Singh when his services was also discharged from the post of Constable based upon the identical facts. This Court having considered the order/judgment passed in CWJC No. 574 of 2017 (In the case of Kaushal Kumar



Singh) wherein issuance of the order of discharge from the post of Home Guard by resorting to Rule-7 of the Bihar Home Guards Rules has been held to be illegal, while setting aside the order of discharge of Prince Kumar Singh from the post of Home Guard, also held that on account of said development there is no order of discharge so as to invalidate the claim and the very basis of the dismissal order from the post of Constable dated 09.01.2012 does not exist; the Court held the order of dismissal from the post of Constable as unsustainable.

9. This Court has also perused the impugned order as contained in Memo no. 6911 dated 10.10.2019, there is no discussion as such on the claim of the petitioner seeking parity with that of the identically situated constable, Prince Kumar Singh. The reason assigned by the Superintendent of Police, Saharsa that on account of the petitioner having been discharged from the post of Constable, his name has been removed from all the records and he has also lost his appeal cannot be a ground to reject his claim for reinstatement, if others have been reinstated on the post of Constable. The uniformity and rendering equal treatment to identically situated person is a hallmark and the concept of equality as enshrined under Article 14 of the Constitution of India. Once the order of this Court passed in



identical matter has been given effect to, there is no reason and occasion why the similar relief should not be allowed to the similarly situated person, which is also an essence of the State Litigation Policy.

10. In view of the aforesaid fact, this Court has left with no option but to set aside the impugned office order as contained in Memo No. 6911 dated 10.10.2019 and relegate the matter to the Superintendent of Police, Saharsa, Bihar, who shall consider the claim of the petitioner for his reinstatement afresh and pass appropriate order of reinstatement, if the similar relief has been accorded to the identically situated person, namely, Prince Kumar Singh.

11. The aforesaid exercise must be completed, preferably within a period of 12 weeks from the date of receipt/production of a copy of this order.

12. The writ petition stands allowed to the extent indicated above.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	10 .02.2025
Transmission Date	

