

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.515 of 2022
In
Civil Writ Jurisdiction Case No.21534 of 2013

1. The State of Bihar and other
2. The Central Selection Board, Constable Selection through its President Computer Building Jawaharlal.
3. The Additional Director General of Police, In-Charge/President of The Central Selection Board Constable.

... .. Appellant/s

Versus

Shivaji Kumar Son of Gajendra Prasad Yadav, Resident of Village- Godhiya,
P.O.- Balam, P.S.- Madhepura, District- Madhepura, Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. P.K. Verma, AAG-3 Mr. Saroj Kumar Sharma, A.C. To A.A.G.3
For the C.S.B.C.	:	Mr. Sanjay Pandey Mr. B.K. Mishra, Advocates
For the Respondent/writ petitioner:		Mr. A.K. Choudhary, Sr. Advocate Mr. Uday Chand Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA)

Date : 11-09-2025

Heard Mr. P.K. Verma, learned Additional Advocate
General-3 for the appellant, Mr. Sanjay Pandey, learned counsel
for the Central Selection Board (Constable Recruitment) and Mr.
A.K. Choudhary, learned Senior counsel for the respondent-writ
petitioner.



2. The present appeal is directed against the order dated 14.12.2021 passed in C.W.J.C. No. 21534 of 2013 whereby and whereunder the writ Court has been pleased to allow the writ petition with the following observation:

“The concerned respondent is hereby directed to create a supernumerary post if the post/vacancy is not available and issue order of appointment within one month from the date of receipt of this order. The petitioner is not entitled to arrears of salary on par with the selected/appointed candidate. However, he is entitled to all service benefits like pay fixation, seniority and other benefits including increments as if he was appointed with other selected candidate. Aforesaid exercise shall be completed within a period of two months from the date of receipt of this order.”

3. The facts of the case is that the respondent-writ petitioner was a candidate for the post of Constable in Backward Class Category against the Advertisement No. 01 of 2012 published by the Central Selection Board (Constable Recruitment), Bihar, Patna. The respondent-writ petitioner has passed the written examination. The petitioner has participated in the Physical Examination Test (PET) which was conducted by the



Board on 16.04.2013, the chest of the petitioner was measured 81-87 cm.

4. Learned Senior counsel for the appellant submits that the authority has received the confidential information that the respondent-writ petitioner had not participated in Physical Examination Test (PET) and on his behalf some one else had appeared in the PET. Again the chest measurement of the petitioner was done by the Board in presence of the Chairman of the Board and was found only to be 80-82.5 cm. which was lesser than the standard fixed for the chest measurement of Backward Class candidate i.e. 81-86 cm. Learned Senior counsel for the appellant submits that the respondent-writ petitioner after satisfaction with the result of re-measurement, had put his signature on PET sheet before the Chairman of the Board and the present case is not a case of arbitrary re-determination of PET, but actually a check on impersonation. Learned Senior counsel for the appellant further submits that in the similar situation in LPA No. 895 of 2014 (Ritu Kumari Vs. The State of Bihar & Ors.), it has been directed “ *it would remain open to the petitioner-appellant to challenge the findings, with regard to her height in a Civil Court of competent jurisdiction and seek necessary remedy for her grievances*”.



5. Mr. Ashok Kumar Choudhary, learned Senior counsel appearing on behalf of the respondent-writ petitioner submits that without any provision of law or source of power vested upon the authority, they wrongly have taken up *suo motu* the case of the respondent-writ petitioner and did re-measurement of the chest and its expansion. Learned counsel for the respondent-writ petitioner further submits that in the absence of source of power for re-examination of a candidate once he has passed in the physical test, the authorities are not empowered to re-examine a candidate unless there is an appeal by the candidate.

6. Learned Senior counsel for the respondent-writ petitioner further submits that the respondent-writ petitioner has filed MJC No. 924 of 2022 (contempt) for compliance of the order dated 14.12.2021 passed in C.W.J.C. No. 21534 of 2013 which is subject matter of the present Letters Patent Appeal and in compliance of the aforesaid order, the Superintendent of Police, Jehanabad has issued a Memo No. 6816 dated 06.12.2022 by which the respondent-writ petitioner has been appointed on the post of Constable in terms of the Advertisement No. 01 of 2012 and petitioner is working on the post in question and the authority has also sent him for advance training.



7. In view of the aforesaid developments,, there is no merit in the appeal. It is accordingly, dismissed.
8. However, the present order need not be the precedent binding in the other case.

(Sudhir Singh, J)

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(Rajesh Kumar Verma, J)

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