

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8694 of 2022

Abhinash Kumar Son of Bimal Kant Yadav, Resident of Village-Shadhpur,
P.O.-Panchrukhi, PS-Sadhpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna.
2. The Central Selection Board (Constable Recruitment), Sardar Patel Bhawan,
6th Floor, Block-A/626, Jawaharlal Nehru Marg, Patna-23.
3. The Chairman, Central Selection Board (Constable Recruitment), Sardar
Patel Bhawan, 6th Floor, Block-A/626, Jawaharlal Nehru Marg, Patna-23.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate Ms. Ritika Rani, Advocate Mr. Vardaan Manglam, Advocate
For the Respondent/s	:	Mr. Dhurendra Kumar, AC to GP-5
For the C.S.B.C.	:	Mr. Sanjay Pandey, Advocate Mr. Binod Kumar Mishra, Advocate Mr. Vivek Anand Amrithesh, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 30-01-2026

Heard learned Counsel for the petitioner, learned
Counsel for the Central Selection Board (Constable
Recruitment) and learned Counsel for the State.

2. Learned Counsel for the petitioner submits
that petitioner was appeared in the examination of selection of
Constable advertised in Advertisement No.5 of 2020 through
Central Selection Board (Constable Recruitment). Counsel
submits that his measurement was wrongly made and shown
only 164.50 cm and subsequently upon oppose it was measured



as 164.2 cm on the same day.

3. Counsel for the petitioner further submits that he has annexed the height measured by Medial Officer, Sadar Hospital, Bhagalpur, where his height was measured by government doctor is 167 cm. Counsel relied on the judgments passed by this Hon'ble Court in the case of **Akshita Singh Vs. The State of Bihar** decided on 03.12.2021 in **CWJC No.14774 of 2021** and case of **Raju Vs. The State of Bihar and others** passed on **09.03.2022 in CWJC No.10956 of 2021**. Counsel for the petitioner submits that in both cases a co-ordinate Bench of this Court directed the respondent authorities to made fresh measurement. Counsel for the petitioner submits that following the said decision made by the coordinate Bench, respondent be directed to remeasure the height of the petitioner. He further submits that he is ready to pay whatever be the cost for measurement of height by Medical Board.

4. Learned Counsel for the Central Selection Board (Constable Recruitment), on the other hand, submits that the measurement of the petitioner was made and it was found that his height is less than the basic limit 165 cm thereafter the petitioner had preferred appeal and the appellate authority again measured the height and found less than 165 cm. He submits



that initially his height was measured 164.5 cm and upon appeal it has been found 164.2 cm. Learned Counsel submits that such type of dispute has been tested by Hon'ble Division Bench of this Court in the case of Ritu Kumari Vs. The State of Bihar & Others passed in L.P.A. No.895 of 2014, arising out of CWJC No.1620 of 2014 in which vide order dated 20.10.2014 this Hon'ble Court has found that writ Court is not the appropriate Court to provide such type of remedy and liberty has been granted to the petitioner to file Civil Suit.

5. After hearing the parties, it is admitted that the petitioner appeared in the selection process, first time his height was measured as 164.5 cm but upon appeal re-measurement took place and in re-measurement his height was found 164.2 cm. Thereafter the petitioner has preferred the writ petition before this Hon'ble Court and decision of the coordinate Benches has been annexed here in the present writ petition, which was in favour of the petitioner. Learned Counsel for the respondent relied on the judgment passed by the Division Bench in LPA No.895 of 2014. The observation of Hon'ble Division Bench made in the case of **Ritu Kumari** (supra) are as follows:-

“What is the height of the petitioner-appellant and whether her height is of required standard or not are questions



of fact and have to be decided by recording evidence.

Logically, therefore, a writ petition is not an appropriate course of remedy in the context of the facts of the present case.

While, therefore, maintaining the order, dated 22.04.2014, passed in C.W.J.C.No. 1620 of 2014, we make it clear that 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.

With the above observations and directions, this appeal shall stand dispose of.

If a suit is filed by the petitioner-appellant, the civil court shall deal with the suit expeditiously and dispose of the same, preferably, within a period of six months from the date of institution of the suit.”

6. After hearing the parties, this Court reached on the conclusion that the decisions made by this Hon’ble Court, which has been annexed by the petitioner, has not considered the Division Bench decision made in LPA No.895 of 2014 which is quoted above. Therefore, this Court holds that the



decisions which are in favour of the petitioner **Akshita Singh** (supra) and **Raju Vs. The State of Bihar and others** (supra) are *per incuriam* as it has not been passed considering the decision of LPA No.895 of 2014. With a view to maintain the judicial discipline, this Court has no option but to dispose off the writ petition observing the principles laid down in LPA No.895 of 2014.

7. Hence, in that view of the matter, this Court is not inclined to grant any relief to the petitioner in spite thereof liberty is hereby granted to the petitioner that if suit is filed by the petitioner the Civil Court shall deal with the suit expeditiously and dispose off the same preferably within six months from the date of this order.

8. With this direction, this writ petition is disposed off.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	31.01.2026
Transmission Date	

