IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.654 of 2024
In
Civil Writ Jurisdiction Case No.4726 of 2020

CNR No. BRHC010630522024

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Bhupendra Mahto son of Suresh Prasad Mahato, resident of Village-Musapur, P.S.-Korha, District-Katihar.

... ... Appellant/s

Versus

1. The State of Bihar through the D.G.P., Bihar, Patna.
2. The Central Selection Board (Constable Recruitment), Bihar, Patna through its Secretary.
3. The Chairman, The Central Selection Board (Constable Recruitment), Bihar, Patna.
4. The Secretary, The Central Selection Board (Constable Recruitment), Bihar, Patna.
5. The Chairman, Constable Selection Board, through the S.P. Katihar.

... ... Respondent/s

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Appearance :

For the Appellant	:	Mr. Devendra Kumar Sinha, Sr. Advocate
		Mr. Ved Prakash Chandan, Advocate
For the State	:	Mr. Sanjay Kumar Ghosarvey, AC to AAG-3
For the C.S.B.C.	:	Mr. Sanjay Pandey, Advocate
		Mr. Binod Kumar Mishra, Advocate
		Mr. Vivek Anand Amritesh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
and
HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH)

4 05-11-2026 Heard learned senior counsel appearing on behalf of the appellant, learned counsel appearing on behalf of the respondent-State and learned counsel appearing on behalf of the respondent-Central Selection Board (Constable Recruitment), Bihar.

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2. The present Letters Patent Appeal has been preferred against the order dated 09.05.2024 passed by the learned Single Judge in *C.W.J.C. No. 4726 of 2020*, whereby the writ petition filed by the appellant seeking a direction to the respondent-authorities to declare his result and consider his case for appointment to the post of Constable against the vacancies advertised under Advertisement No. 02 of 2009 was disposed of.

3. The brief facts of the case are that the Central Selection Board (Constable Recruitment), Bihar, issued Advertisement No. 02 of 2009 on 12.12.2009 inviting applications for recruitment to 10,110 posts of Constable in the State of Bihar. The appellant applied for the post of Constable in Katihar district under the Non-Home Guard category. He claims to have participated in the written examination held on 01.05.2010 and thereafter, in the Physical Evaluation Tests, including PET-I and PET-II. His grievance is that although he had participated in the selection process and had qualified in the physical tests, his name was not included in the final selection list.

4. Learned senior counsel for the appellant submits that it is the case of the appellant that, in the earlier round of

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litigation arising out of the said recruitment process, this Court, by order dated 19.02.2011 passed in *C.W.J.C. No. 14170 of 2010* and analogous cases had issued directions to the respondent-authorities for redrawing the selection list and declaring the result of candidates who came within the zone of consideration. The said order was also challenged by the State and the Board in Letters Patent Appeals vide L.P.A. No. 634 of 2011 and analogus cases, which came to be dismissed. The appellant contends that, in view of the aforesaid directions and subsequent proceedings in *C.W.J.C. No. 15487 of 2011* and connected matters, his case ought also to have been considered. It is further submitted that several candidates similarly situated have subsequently been considered and appointed, whereas the appellant has been denied the same treatment.

5. Learned senior counsel for the appellant further contends that the appellant successfully participated in the written examination as well as the physical evaluation tests, but the Board did not declare his result. It is contended that the appellant's name was not even included in the list of candidates found ineligible after verification of documents. According to learned senior counsel, the respondent-authorities have failed to furnish a satisfactory explanation for excluding the appellant

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from consideration. It is further submitted that the learned Single Judge has disposed of the writ petition without properly appreciating the earlier orders passed by this Court and the grievance raised by the appellant.

6. Per contra, learned counsel appearing on behalf of the State and Central Selection Board submits that the selection process was undertaken in accordance with the applicable criteria and the directions issued by this Hon'ble Court from time to time. It is submitted that after the earlier litigation, the entire exercise was reconsidered and the result was redrawn under the supervision of the competent authorities. Pursuant thereto, a revised list of candidates was prepared and 1,308 additional candidates were selected. The list of such candidates was forwarded by the Police Headquarters to the Board for taking necessary steps towards appointment against the available vacancies. It is further submitted that upon verification of documents, 60 candidates were found ineligible for different reasons and their names were uploaded separately. Learned counsels for the respondents have specifically submitted that the appellant belongs to the Extremely Backward Class, Male, Non-Home Guard category and had secured 61 marks, whereas the cut-off marks for selection in the said category were 99. It is,

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therefore, submitted that the appellant was below the prescribed cut-off and did not fall within the zone of consideration. His name was consequently not included in the selection list. The Board has also explained that the physical evaluation tests were qualifying in nature and that the final selection was made on the basis of the applicable merit criteria and category-wise vacancies.

7. We have considered the submissions advanced on behalf of the parties and have perused the materials available on record. At the outset, it is necessary to notice that the appellant's claim is founded primarily upon his participation in the selection process and the directions issued by this Hon’ble Court in the earlier round of litigation. However, mere participation in the written examination or physical evaluation tests does not, by itself, confer any indefeasible right to appointment. A candidate seeking appointment is required to satisfy the prescribed eligibility conditions and secure a position within the zone of consideration in accordance with the applicable selection criteria and available vacancies.

8. The earlier orders passed by this Court in the batch of writ petitions and connected appeals were intended to ensure that the recruitment exercise was reconsidered in accordance

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with the directions issued therein. The subsequent proceedings also resulted in the constitution of a committee and redrawing of the result, pursuant to which additional candidates were selected. The directions issued in those proceedings cannot, however, be construed to mean that every candidate who had participated in the selection process became entitled to appointment, irrespective of his marks or position in the relevant category. The benefit of such directions was necessarily subject to the candidate satisfying the applicable criteria and falling within the zone of consideration.

9. In the present case, the counter-affidavit filed on behalf of the Board specifically states that the appellant had secured 61 marks, whereas the cut-off for his category was 99 marks. The appellant has not placed any material before this Court to establish that he had secured the requisite marks or that the category-wise cut-off applied by the Board was contrary to the applicable selection criteria. Even in the memo of appeal, the appellant's own case is that he had secured 61 marks, though a different cut-off figure has been referred to therein. The appellant has, therefore, failed to demonstrate that he was entitled to be included in the final selection list.

10. It is noticed that the learned Single Judge, while

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disposing of the writ petition, recorded that the appellant had secured 21 marks against the cut-off of 66 marks. The counter-affidavit filed in the present appeal, on the other hand, refers to 61 marks against a cut-off of 99 marks. There is, thus, a variation in the figures recorded in the impugned order and those stated in the counter affidavit in the present appeal. We have taken note of the same. However, even on the basis of the appellant's own assertion of having secured 61 marks, he has not established that he had obtained the marks required for selection in his category. The discrepancy in the figures, in the absence of any material demonstrating that the appellant had crossed the applicable category-wise cut-off, does not furnish a ground for directing his selection or appointment.

11. The contention of the appellant that his name was not included in the list of 60 candidates found ineligible after document verification also does not advance his case. The said list, as explained by the Board, relates to candidates who had been included in the list of selected candidates but were subsequently found ineligible upon verification of their documents. The absence of the appellant's name from that list cannot be treated as proof that he had qualified for selection or that his candidature had been wrongly excluded. The question of

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document verification would arise only after a candidate is found eligible for consideration in the selection list.

12. The appellant has also relied upon the fact that certain other candidates were subsequently considered and appointed. However, no material has been placed before this Court to establish that any candidate belonging to the same category, having secured marks lower than the appellant and being similarly situated in all material respects, was selected in preference to him. A general assertion that other candidates have been appointed cannot, by itself, establish discrimination or arbitrariness. The selection has to be examined with reference to the applicable category-wise criteria, merit position and available vacancies.

13. The submission that the appellant had successfully completed the physical evaluation tests also does not alter the position. The Board has explained that the physical evaluation tests were conducted as qualifying stages of the recruitment process and that the final selection was made in accordance with the prescribed merit criteria. Participation or qualification at a qualifying stage does not dispense with the requirement of securing the requisite position in the final merit list. The appellant cannot claim appointment merely on the ground that

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he was permitted to participate in the subsequent stages of the recruitment process.

14. This Court also find that the learned Single Judge has considered the stand of the respondent-authorities and has declined to issue a direction for declaration of the appellant's result or his appointment in the absence of the requisite merit position. No material has been brought before us to demonstrate that the conclusion arrived at by the learned Single Judge suffers from any perversity, illegality or error warranting interference in exercise of our appellate jurisdiction.

15. In view of the aforesaid discussion, we find no merit in the present Letters Patent Appeal. The order dated 09.05.2024 passed by the learned Single Judge in *C.W.J.C. No. 4726 of 2020* does not call for any interference.

16. Accordingly, the Letters Patent Appeal stands dismissed.

17. Pending interlocutory application(s), if any, shall also stand disposed of.

(Prabhat Kumar Singh, J)

(Rana Vikram Singh, J)

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