

(2009) 07 JH CK 0111
In the Jharkhand High Court

Amar Nath Bhagat

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-07-2009

Acts Referred:

Citation : (2009) 07 JH CK 0111

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

Narendra Nath Tiwari, J.—The petitioner having passed Bihar Secondary School Examination in the year 1994, preferred police service and, as such, he applied for the post of Constable (Sepoy) in Jharkhand Police in response to the Notification No. 01/04 published for the purpose of appointment of police personnel. The petitioner was found eligible and was called for the test and selection. He appeared in the test and after scrutinizing his profiles and physical fitness etc., he was selected in the finally published selection list being serial No. 6564/P. A call letter was issued to the petitioner on 14.12.2005 from the office of the Superintendent of Police, Deoghar. When the petitioner reported to the office, he was asked to be present at 10.00 A.M. on 20.12.2005 in the Police Centre, Deoghar for the purpose of his appointment. The petitioner accordingly attended the Centre on 20.12.2005, produced all his original certificates, documents and also the caste certificate as he is by-caste "Baniya" and belongs to OBC category. The petitioner was medically examined on 22.12.2005 and was found fit for appointment to the post of Constable. His finger prints were also taken over in the Appointment Register. The petitioner thereafter asked to wait for joining letter, but even after lapse of long time, he did not receive any joining letter. The petitioner thereafter made representation before the Sergeant of Police Training Centre, Deoghar; Superintendent of Police and Deputy Inspector General of Police, Dumka on 3.4.2006, but: there was no response to the said representation. The petitioner thereafter sent a reminder on 11.12.2006, but in spite of the same, nothing was heard from the concerned respondents. The petitioner thereafter preferred this writ petition.

2. Learned Counsel, appearing on behalf of the petitioner, submitted that having completed all formalities of the final selection and also for appointment withholding of joining letter is wholly malicious, arbitrary" and unjustified. It has been submitted that the other candidates, who were selected, got their joining letter and allowed to join the duty while the petitioner has been discriminated against. The petitioner, thus, sought a direction against the respondents to accept his joining.

3. A counter affidavit has been filed on behalf of respondent No. 4 explaining the reason for not issuing joining letter to the petitioner. It has been admitted that the petitioner was selected for appointment, but at the time of joining, his height was measured as 168.5 cms., whereas his height was earlier measured as 170 cms. Because on subsequent measurement, his height was found lesser, his total mark obtained was reduced from 14 to 13. The candidates, who got 14 marks in OBC quota, have been appointed and allowed to join the service and the petitioner having lesser mark is not entitled to make any grievance of discrimination.

4. I have heard learned Counsel for the parties and perused the documents on record. It is not in dispute that the petitioner was finally selected for appointment to the post of Constable (Sepoy). In the test held for appointment, he was found fit and eligible for the post.

5. From the documents, it appears that after publication of selection list, he was called for appointment/posting and asked to go through the other formalities. Even on that date, he was not informed about any objection or deficiency or the reduce height of 168.5 cms, lesser than what was found by the Selection Committee. There is nothing on the record to show that the entry regarding the height of the petitioner was challenged by anybody or was obtained by fraud or there was any other occasion for his re-measurement after final selection for the post. It is also not on record to show that any opportunity was given to him before lowering his marks from 14 to 13, which was given by the Selection Committee.

6. Learned Counsel for the petitioner submitted that although there was no occasion for re-measurement, if the petitioner's height is measured even now, his height will be found as 170 cms. It has been submitted that the interference with the final selection is arbitrary and illegal and the same has been done deliberately to favour some other and deprive the petitioner of his employment and source of livelihood.

7. Considering the above, this writ petition is disposed of directing the Deputy Inspector General of Police, Dumka to look into the claim of the petitioner and refer the petitioner to a Medical Board to be constituted of at least three members under the supervision of the Civil Surgeon-cum-Chief Medical Officer, Dumka to get the height of the petitioner measured. The Civil Surgeon-cum-Chief Medical Officer, Dumka on reference of the same shall constitute a Board in

his/her Chairmanship and two other Medical Officers and take measurement of the height of the petitioner and furnish a report within a period of two weeks from the date of receipt of the reference from the Deputy Inspector General of Police, Dumka. If the height of the petitioner is measured as 170 cms., as was measured by the Selection Board, appropriate order regarding the joining of the petitioner shall be passed within a period of two weeks thereafter by the appointing authority. The Deputy Inspector General of Police, Dumka shall see that the time frame given in this order is strictly followed.