
(2002) 09 PAT CK 0037
In the Patna High Court
Case No : C.W.J.C. No. 9919 of 2001

Manoj Kr. Pandey

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-09-2002

Acts Referred:

Citation : (2002) 4 PLJR 445

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Chandramauli Kr. Prasad, J.—In this writ application prayer of the Petitioner is to issue a writ in the nature of mandamus commanding the Respondents to make remeasurement and appoint him to the post of constable in the Bihar Military Police.

2. In view of the order which I propose to pass in this writ application it is inexpedient to give in detail the facts of case. Suffice it to say that the Petitioner applied for recruitment to the post of constable in the Bihar Military Police in responses advertisement No. 1/1998. In the master chart his height has been recorded as 177.5 c.m. It is common ground that persons having height of 178.5 cm. in the general category, to which the Petitioner belongs, have been appointed. It is the grievance of the Petitioner that although his height is 179 cm. and he had applied for his remeasurement of height by filing representation dated 16.2.2001 before the Deputy Inspector General of Police and representation dated 16.5.2001 (Annexure-4) before the Director General-cum-Inspector General of Police, but till date the measurement has not been made.

3. In the counter affidavit the stand of the Respondents is that Petitioner did not apply for remeasurement within the stipulated time and as such the height of the Petitioner has not been remeasured.

4. Mr. Teg Bahadur Singh appearing on behalf of the Petitioner submits that it is

a fit case in which the height of the Petitioner be remeasured. He points out that in the counter affidavit Respondents have not denied specially that the Petitioner did not file application for remeasurement.

5. J.C. to S.C.-IX however, submits that the work of remeasurement cannot go indefinitely and hence prayer made by the Petitioner is fit to be rejected.

6. It is a difficult situation. In many of the cases which have travelled to this Court, on remeasurement the height of candidate had varied. In case the claim made by the Petitioner is true and direction sought for remeasurement is not granted then Petitioner will sustain irreparable injury. However, no injury shall be caused in case Respondents are directed to take remeasurement. Hence I am inclined to direct for remeasurement of the height of the Petitioner. However in order to ahold uncalled for prayer I would like to put the Petitioner to certain conditions. In case the Petitioner deposits a sum of Rs. 5000/-with the Director General-cum-Inspector General of Police within two weeks, he shall arrange for remeasurement of the Petitioner by an officer not below the rank of Deputy Inspector General of Police. In case, on measurement, if the height of the Petitioner is found to be the same as claimed by him or more than height of the candidate selected for appointment in general category the amount deposited by him shall be refunded otherwise the same shall be forfeited.

7. Application is allowed in the aforesaid terms.