

(2014) 12 PAT CK 0053
In the Patna High Court
Case No : CWJC No. 1722 of 2014

Ramesh Kumar Suman

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 01-12-2014

Acts Referred:

Citation : (2015) 1 PLJR 829

Hon'ble Judges : Ajay Kumar Tripathi, J

Bench : Single Bench

Advocate : Shashi Bhushan Kumar, Advocates for the Appellant; Subhash Pd. Singh, Advocates for the Respondent

Judgement

Ajay Kumar Tripathi, J.—By virtue of Annexure-1, dated 31.10.2013 petitioner's appointment on the post of an Assistant Teacher has come to be annulled. The reason given by the District Programme Officer (Establishment), Vaishali is that the minimum disability must be to the extent of 40% for any candidate to derive benefit of reservation under Physically Handicapped category since petitioner was subjected to Medical Board and his disability was to the extent of 30%, therefore, his appointment was required to be cancelled. Learned senior counsel for the petitioner submits that the decision is a kind of innovation done by the respondents because petitioner never claimed benefit of disability. He was never considered for appointment under that category. Based on his merit position, he was recommended by the Staff Selection Commission under Unreserved category. The rank of the petitioner was 4936 and altogether 13871 candidates under Unreserved category were recommended and thereafter appointed.

2. The position taken by the petitioner stands corroborated by the counter affidavit filed on behalf of Bihar Staff Selection Commission. Obviously, counter affidavit of the State is in support of the position contained in Annexure-1. But they have failed to establish before this Court through any independent material that the petitioner's appointment was in fact made under Physically Handicapped category. The various notifications in fact annexed with the writ application

support the case of the petitioner that his selection and appointment was under Unreserved category. Obviously, somebody in the Department tried to play mischief because petitioner had annexed a physical disability certificate along with his application. But then since it was not acted upon by the Selection Board or authority and the notification for his appointment does not indicate that his appointment was under the quota of disability and not under Unreserved category, the material and the basis for cancelling the appointment of the petitioner is on non-existent facts if not erroneous understanding of fact. Writ application, therefore, is allowed. Annexure-1 dated 31.10.2013 is quashed. Petitioner will be restored back in his service immediately.