
(1996) 12 PAT CK 0014
In the Patna High Court
Case No : C.W.J.C. No. 7341 of 1996

Renu Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 18-12-1996

Acts Referred:

Citation : (1997) 1 PLJR 350

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Pramod Mishra and Ramesh Kumar Thakur, for the Appellant; B.N. Singh and Ram Priya Sharan Singh, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The writ petition was filed by the Petitioner for direction on the Respondents to appoint the Petitioner to the post of Constable in the district of Madhepura.

2. According to the Petitioner, in pursuance of Advertisement No. 2/95 issued for appointment to the post of Constable in the district of Madhepura, she applied and took part in the test, including the physical test and measurement test. Thereafter the Respondents prepared a merit list on the basis of height of candidates, which contains names of 75 persons. It is stated that the name of the Petitioner was appearing at serial No. 75 of the said merit list/panel and altogether 75 posts were to be filled up. A grievance has been made that though the Petitioner belongs to the Most Backward Category (Annexure-1) but the Respondents have not given appointment to the post of Constable. It is stated that at least one post should have been filled up from amongst the Most Backward Category candidates and she should have been provided with such appointment.

3. A counter affidavit has been filed on behalf of the Respondents. The counsel for the State submits that the name of the Petitioner was included in the merit list/panel, on wrong presumption that the height of the Petitioner was 168 cms.

However, subsequently it was found that the height of the Petitioner is only 164.5 cms. and for the said reason her name was excluded and in her place one Asha Kumari has been given appointment to the post of Constable, whose height is 165.5 cms. However, nothing has been stated with regard to reservation of the post in question.

4. The counsel for the Petitioner at this stage submitted that the minimum height prescribed for appointment to the post of Lady Constable of Most Backward Category was 153 cms. and the Petitioner being 164.5 cms. was eligible for such appointment. The counsel for the Petitioner states that according to his information, Asha Kumari belongs to general category and the Petitioner has already filed a representation to that affect.

5. Having heard the parties, according to this Court, no positive direction can be given in this case in absence of Asha Kumari. The Petitioner is directed to file a representation before the Superintendent of Police, Saharsa. The said Superintendent of Police, Saharsa is directed to look into the matter. If, it is found that the Petitioner belongs to Most Backward Category and the post in question was reserved for Most Backward Category and there is no other candidate belonging to the said category to be appointed, whose position is above the name of the Petitioner in the merit list, in that case the Petitioner is to be provided with appointment to the post of Constable. In such a situation for providing appointment in favour of the Petitioner, it will be open to the Superintendent of Police, Saharsa to give notice to Asha Kumari to that effect pointing out that the post was reserved for Most Backward Category Candidate and she being a general category candidate was not entitled for appointment against such reserve post. Such decision is to be taken by the Superintendent of Police, Saharsa within a period of three months from the date of filing of representation.

6. It is made clear that this Court has not decided the case of the Petitioner and/or Asha Kumari on merit.

7. The writ petition stands disposed of with the aforementioned observation and direction.