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**(2010) 05 JH CK 0096**  
**In the Jharkhand High Court**

Rita Kumari

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 17-05-2010

**Acts Referred:**

**Citation :** (2010) 05 JH CK 0096

**Hon'ble Judges :** Amareshwar Sahay, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Amareshwar Sahay, J.—This is the third round of the petitioner to this Court for redressal of her grievance. Initially, she filed a petition bearing W.P.(S) No. 3397 of 2005, making a grievance that though her name appears at Sl. No. 23 in the Final Select List, but she has not been appointed to the post of Police Constable, and the" said writ petition was disposed of on 25.6.2007, directing the Respondent No. 3, the Senior Superintendent of Police, Ranchi to consider her case and take a decision in the matter within a period of two months, thereafter, the Senior Superintendent of Police by issue of Annexure-2 dated 23.8.2007 as contained in Annexure-2, rejected the claim of the petitioner for appointment to the post of Police Constable on the ground that from perusal of the List of the Selected Candidates, it appeared to him that in the Category of B.C.-1, the name of the petitioner appeared at Sl. No. 23, but in fact she being "Sahu" by caste, was under the Category of B.C.-2, and therefore, she could not be appointed. Subsequently, the Respondent-Sr. Superintendent of Police issued a fresh order dated 27.10.2007 as contained in Annexure-3, after withdrawing his order contained in Annexure-2 stating that in fact the petitioner got only 6(six) points on merit but she secured 0(zero) in measurement of her Height, and therefore, she could not be appointed. The petitioner again challenged the said two orders passed by the Senior Superintendent of Police, Ranchi, as contained in Annexure-2 and Annexure-3 herein, being W.P.(S) No. 6689 of 2007. A counter affidavit was filed on behalf of the Respondents including the Senior

Superintendent of Police, Ranchi, wherein they have stated that the earlier order passed on 23.8.2007 as contained in Annexure-2 was withdrawn, and now the order as contained in Annexure-3 dated 27.10.2007, has been passed. This Court, by order dated 5.10.2009, as contained in Annexure-4, disposed of the said writ petition by holding, as follows, that:

from the counter-affidavit as also from the explanation offered by the counsel for the respondents, it is not clear as to what is the specific stand taken by the respondents in respect of Annexure-4, although the heading of Annexure-4 declares that it contains the names of all selected candidates. It is not denied that Annexure-4 is a document prepared by the respondents themselves which they had filed in an earlier writ application along with their counter -affidavit. If Annexure-4 is the list of finally selected successful candidates and if as per the undisputed statement of the petitioner, all the remaining 30 candidates of the list have been granted appointment, the respondents are yet to offer any reasonable and convincing explanation as to why the petitioner has not been granted the same benefit as the other candidates in the list.

As rightly argued by the learned Counsel for the petitioner, having published the final list of successful selected candidates, the respondents cannot now take a stand that the petitioner could not be finally selected on account of her height being below the prescribed standard. Respondents have not denied the genuineness of Annexure-4, nor have declared that the name of the petitioner appearing at serial No. 23 of Annexure-4 was by mistake.

(underlining is mine for emphasis)

2. After giving the said specific findings, the respondents were directed to reconsider the petitioner's candidature in terms of the final selection list and also considering the fact that the other candidates in the same list were given appointments.

3. The grievance of the petitioner is that in spite of the specific findings by this Court in her earlier writ petition being W.P.(S) No. 6689 of 2007 (Supra), the Sr. Superintendent of Police, Ranchi again by order dated 12.12.2009 has rejected the claim of the petitioner on the same ground which was earlier negated by this Court. Accordingly, it is prayed that the impugned order dated 12.12.2009 passed by the Sr. Superintendent of Police as contained in Annexure-5 is arbitrary, illegal, unwarranted and contrary of the findings of this Court. A counter affidavit has been filed by the Respondent No. 3, Sr. Superintendent of Police in this writ petition, It is reiterated in the counter affidavit that the petitioner did not conform to the Height prescribed for appointment to the post of Police Constable.

4. In my view, when this Court in the earlier writ petition bearing W.P.(S) No. 6689 of 2007, gave a clear finding which has already been quoted hereinabove, the Sr. Superintendent of Police had no jurisdiction to reject the candidature of the petitioner on the same very ground. The said Sr. Superintendent of Police,

Ranchi has gone beyond his jurisdiction in passing the impugned order as contained in Annexure-5 rejecting the claim of the petitioner for appointment to the post of Constable on the ground that she did not fulfill the prescribed height for appointment to the post of Police Constable.

5. Therefore, for the reasons stated hereinabove, this writ application is allowed, and the order as contained in Annexure-3 passed by the Senior Superintendent of Police, Ranchi, is, hereby, quashed, and the Respondent -Senior Superintendent of Police, Ranchi, is directed to issue a letter of appointment to the petitioner for the post of Police Constable, within a period of two weeks from the date of receipt /production of a copy of this order.