

(2011) 07 JH CK 0102

Jharkhand High Court

Case No: Writ Petition (S) No. 1335 of 2011

Santosh Kumar Mahto

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: July 26, 2011

Citation: (2011) 4 JCR 390

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Narendra Nath Tiwari, J.

In this writ petition, the Petitioner has prayed for a direction on the Respondents to issue appointment letter to the Petitioner and allow him to join on the post of Constable in the district of Bokaro for which he has been successfully selected.

2. According to the Petitioner, his selection was finally made on the basis of his performance and eligibility. The Petitioner was then given a call letter for verification of the certificates etc. The Petitioner produced all the certificates, which were found in order, but his joining was refused on the ground that on re-measurement the Petitioner was found 0.4 cm. less than the measurement recorded in the master chart. Learned Counsel for the Petitioner submitted that there was no occasion for re-measurement and holding the Petitioner's height shorter than what was recorded in the master chart. Even after re-measurement, the Petitioner's height has been recorded 0.4 cm. lesser than the height recorded by the Selection Board. He further submitted that Master Chart has been produced by the Respondents as Annexure A to their counter affidavit, which goes to show that there was no re-measurement of height of the other candidates. The Petitioner has claimed that his height has been rightly measured as 167.1 cm. and he was rightly selected. The Respondents cannot prevent the Petitioner from joining on the basis of the said arbitrary ground that on re-measurement his height was found 0.4 cm. less than the

height recorded in the master chart.

3. A counter affidavit has been filed by the Respondents, stating, inter alia, that after selection the Petitioner was called for verification of the certificates. His height was re-measured and found 0.4 cm. less than the height recorded in the master chart 2 and for that reason the Petitioner has not been found eligible for appointment.

4. I have heard learned Counsel for the parties and perused the facts and the materials on record. From the extract of Master Chart (Annexure A) produced by the Respondents it is evident that his height was recorded as 167.1 cm. in the selection list. A call letter was issued to the Petitioner dated 13th April, 2010. The said call letter does not mention any thing regarding re-measurement of height. It is not clear as to what was the occasion for re-measurement of the Petitioner's height. From the extract of the Master Chart/Merit List, it is clear that no re-measurement or alteration of height is mentioned against other candidates, whose names appear in Annexure A. The Petitioner once selected on the basis of his height measured by the Selection Board and when there was no dispute, There was no occasion for re-measurement of the Petitioner's height. The re-measurement of the Petitioner's height, contrary to the measurement taken by the Selection Board itself appears to be arbitrary and uncalled for that too 0.4 cm. is negligible difference and there is chance of human error, if the person taking the height of the Petitioner is not trained for taking such measurement with accurate precision. There is nothing on record and the Respondents have also not made any such statement that the person, who re-measured the height of the Petitioner, was having expertise of taking measurement with such precision to find out the difference of 0.4 cm. in the height of the Petitioner. On the plea of uncalled for re-measurement by a person without such expertise and without any dispute against the measurement taken by the Selection Board and that too on the alleged negligible difference of 0.4 cm. in the measurement of the Petitioner's height, his valuable right cannot be denied by the Respondents. The Respondents' stand is arbitrary and unjustified and the same cannot be accepted.

5. In view of the above, this writ petition is allowed. Recording of the Petitioner's height different from the height recorded by the Selection Board is held to be vitiated. The Respondents are directed to issue letter of appointment, if there is no other legal impediment in appointing the Petitioner, within four weeks from the date of receipt/production of a copy of this order.