
Laxman Kr. Mandal Vs State and Others

C.W.J.C. No. 4656 of 2003

Court: Patna High Court

Date of Decision: Aug. 23, 2004

Citation: (2004) 4 PLJR 580

Hon'ble Judges: V.N. Sinha, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

V.N. Sinha, J.

Heard. Petitioner has filed this writ petition for a direction to the respondents-authorities to appoint him on the post of

constable, as he was qualified for such appointment, pursuant to the selection test held in continuation of advertisement No. 1 of 1998.

2. Learned counsel for the petitioner states that the petitioner belongs to the Homeguard B.C.I Category, and the candidate who was last

appointed in the Homeguard B.C.I Category measured 165 C.M. whereas the petitioner measured 169 C.M. He further states that as per the

selection norms the petitioner in consideration of his height ought to have been appointed as a constable from the Homeguard B.C.I Category. In

this connection, he further states that when persons lessor in height than the petitioner were appointed ignoring the petitioner he approached the

Deputy Inspector General of Police, Munger Range, Munger, who in consideration of his grievance under memo No. 1878 confidential dated

19.8.1999, annexure-2, directed the Superintendent of Police, Sheikhpura, cum-Chairman of the Selection Committee to look into the grievance

of the petitioner. Till date Superintendent of Police, Sheikhpura, has not been able to consider the request of the petitioner. Hence, this court

should direct him to not only look into the grievance but also to appoint the petitioner.

3. Learned counsel for the State has refuted the aforesaid contention by filing the counter-affidavit.

4. Perusal of the counter-affidavit indicates that it is an admitted position that the petitioner has been measured 169 C.M. and the last candidate

who was appointed from his category Home Guard B.C.I has measured 164 C.M. Still the respondents contend that the petitioner could not be

appointed as a constable as his appointment as a Homeguard itself was illegal and not in accordance with law. In this connection, they stated that

when the petitioner was appointed as a Homeguard he was below 18 years of age which is the minimum prescribed age for appointment in

Homeguard.

5. Petitioner was enrolled as a Homeguard in the 1989 and he continued as a Homeguard throughout. During that period he not only served as a

Homeguard but also acquired training as a Homeguard. Now when he has been found suitable for appointment as a constable in the Homeguard

B.C.I. Category respondent authorities should not be allowed to take the ground that his appointment as a Homeguard itself is vitiated. In view of

findings above, I direct the respondent authorities to appoint that petitioner as a constable in the Homeguard B.C.I. Category by adjusting him

against those vacancies which could not be filled up on account of non-joining of the selected candidates. The orders in favour of the petitioner

should be issued within a period of one month from the date of receipt/production of a copy of this order as the petitioner has been agitating this

issue with the authorities concerned immediately after he came to learn that person lessor in height than him has been appointed as constable and,

in this connection, learned counsel for the petitioner has placed reliance over memo no. 1878 confidential dated 19.8.1999 of the Deputy

Inspector General of Police, Munger Range, Munger, annexure-2. This writ petition is, accordingly, allowed in the aforesaid terms. No order as to

cost.