

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1465 of 2017**

Manoj Kumar Son of Sri Jaynath Prasad, Resident of Village Sikanderpur  
Post Katesar, Police Station- Bihta, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chairman, Central Selection Board of Constable Shri Sal Tara Complex,  
I.A.S. Colony, Bailey Road, Patna Bihar.
3. The Secretary, Central Selection Board of Constable, Shri Sal Tara Complex,  
I.A.S. Colony, Bailey Road, Patna Bihar.
4. The Examination Controller, Registration, Excise, and Prohibition,  
Department, Constable Excise, Patna Bihar.
5. The Union of India through Secretary Ministry of Personnel, Public  
Grievances and pensions (Department of personnel & Training) New Delhi.

... .. Respondent/s

**Appearance :**

|                      |   |                                     |
|----------------------|---|-------------------------------------|
| For the Petitioner/s | : | Mr. Ravi Kant Kumar, Advocate       |
| For the State        | : | Mr. Pankaj Kumar Singh, AC to GA- 9 |
| For the UOI          | : | Mrs. Kanak Verma, CGC               |
| For the CSBC         | : | Mr. Sanjay Pandey, Advocate         |
|                      |   | Mr. Binod Kumar Mishra, Advocate    |
|                      |   | Mr. Vivek Anand Amritesh, Advocate  |

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**

**Date : 06-01-2026**

1. Heard learned counsel for the parties.

2. The petitioner has filed the instant application

for the following reliefs:

*“(A) Issue writ of certiorari, for  
the Memo no. 177/C.S.C (R.T.I) dated  
30.12.2016 (Annexure-8) information got  
under right to information Act, by issued by  
the Authority Central, Selection Board of  
constable, Bihar, Patna to the petitioner*



*whereby and where under claim of the petitioner for his appointment as Excise constable as per Advertisement/Notification No. 01/2015 has been rejected in illegal Arbitrary, manner against the 25% Reserved category Ex-Service (Defence) as per Reservation chart also on the ground to that his graduation certificate issued by depot, Coy (MT/Sup) ASC Centre South) C/O ASC, Centre & College, Bangalore 560007, as per guide line acquisition of educational qualifications No. 15012, 8/82 Esst. (D) Government of India, Ministry of Personnel, Public Grievances and pensions (Department of Personnel & Training New Delhi, dated 12 February 1986 is not valid certificate to appointment/selection in the post of Excise Constable. As per said Advertisement/notification No. 01/2015, Central selection Board of constable. Without verify the facts and legality of the said graduation Certificate by competent authority in this regard.*

*(B) To issue further writ of certiorari to th quash the notification dated 25<sup>th</sup> February, 2014, Bihar Excise constable cadre, (Selection and service Condition) of Para-05 which is wrongly explanation.*

*(C) To issue the writ of*



*mandamus commanding the Respondent to discharge there legal obligation to appointment to the petitioner on the post of Excise Constable under State of Bihar in several District in which final merit list be published but petitioner name not found in the said list under Malafide and arbitrary action.*

*(D) For proper action against responsible respondents involved in such illegal manner in selection of said process.*

*(E) For any relief/reliefs petitioners may be found entitled to.”*

3. The case of the petitioner in brief is that the respondents having come out with Advertisement no. 1 of 2015 for appointment as Excise Constable, the petitioner who belong to the category of ex-service (defence personnel) filed an application for appointment.

4. It is the case of the petitioner that he has not been selected on the ground that as per Rule 5 of the Bihar Excise Constable Cadre (Appointment & Service Conditions) Rules, 2014 (hereinafter referred to as ‘the Rules’), the candidate should have passed the intermediate examination from a Board/Council recognized by the State/Central Government or should have passed an equivalent examination.



5. It is submitted by learned counsel for the petitioner in reference to notification dated 12.2.1986 (Annexure-6) of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) that for appointment to any reserved vacancy in Group-C posts, a matriculate ex-servicemen who has put in 15 years or more of service in the Armed Service of the Union may be considered eligible for appointment to the post for which essential educational qualification prescribed is graduation.

6. Learned counsel for the petitioner further submits that the petitioner having worked as a driver in the Indian Army for 17 years from 25.8.1994 to 31.8.2011, as evident from the Indian Army Graduation Certificate dated 31.8.2011 (Annexure-5), his application for appointment should not have been rejected on this ground. Reliance is placed by learned counsel for the petitioner on the judgments of the Rajasthan High Court brought on record as annexures to the supplementary affidavit filed by him.

7. In response, opposing the writ application, learned counsel for the respondents submits that in the Advertisement no. 1 of 2015, the eligibility of the candidate has been taken from Rule 5 of the Rules which is to the effect



that the candidate should have passed the intermediate (10+2) examination on 1.1.2015 from a Board/Council recognized by the State/Central Government or he should have passed an equivalent examination. It is submitted that admittedly the petitioner had not passed any intermediate examination conducted by a recognized Board/Council nor has he passed any equivalent examination.

8. Learned counsel for the respondents further submits that so far as reliance on the judgment of the Rajasthan High Court is concerned, the Rules herein were not a subject matter in the said case. Further even in the notification dated 12.2.1986, reliance on which has been placed by learned counsel for the petitioner, discretion has been given to the employer for considering the eligibility for appointment on the respective posts. The relevant clause with respect to eligibility being clear in Advertisement no. 1 of 2015, there is no illegality in non-selection of the petitioner. It is lastly submitted that final result has been published on 15.12.2016, appointments pursuant thereto have been made and subsequent advertisements have also been published for filling up the subsequent vacancies.

9. Heard learned counsel for the petitioner, learned



counsel for the respondents and perused the material on record.

10. The relevant facts in brief are that the petitioner having applied for appointment as Excise Constable against Advertisement no. 1 of 2015 in the category of ex-service (defence personnel) on not having been appointed, has preferred the instant application for the relief as stated herein above.

11. The case of the petitioner is that from the graduation certificate of the Indian Army issued to him on 31.8.2011, it would transpire that he served in the Indian Army as a driver for 17 years from August 1994 to August 2011.

12. The reason for non-selection of the petitioner as Excise Constable, as reflected from the letter dated 30.12.2016 (Annexure-8) written by the Public Information Officer, Central Selection Board (Constable Appointment), Bihar, Patna to the petitioner is that in support of his educational qualification submitted for selection, the petitioner has produced the Army Graduation Certificate and not a certificate of any Board/Council recognized by the State/Central Government.

13. At this stage, it would be relevant to note that clause 5 of the Rules (Annexure-3) provides the educational



qualification which is that a candidate should have passed intermediate (10+2) or equivalent examination from a Board/Council recognized by the State Government/Central Government.

14. It may be mentioned here itself that a copy of the Advertisement no. 1 of 2015 has been brought on record as Annexure-B to the counter affidavit filed on behalf of the respondent nos. 2 and 3 and the educational qualification mentioned therein is a reproduction of clause 5 of the Rules with a further condition that the candidate should have passed the same on or before 1.1.2015.

15. So far as the petitioner herein is concerned, in support of his educational qualification, along with his application he submitted a copy of the graduation certificate dated 31.8.2011 (Annexure-5) issued by the Indian Army. There is no dispute with the fact that it is not a certificate with respect to an intermediate (10+2) or its equivalent conducted by a Board/Council recognized by the State Government/Central Government.

16. So far as the judgments relied on by learned counsel for the petitioner is concerned, it may only be observed here that the same are of no assistance to the petitioner for the



reason that Rule 5 of the Bihar Excise Constable Cadre (Appointment & Service Conditions) Rules, 2014 which has been reproduced as the eligibility criteria in the Advertisement no. 1 of 2015 was not a subject matter of the cases being relied on by learned counsel for the petitioner.

17. In view of the facts and circumstances stated herein above, the Court finds no illegality in the petitioner not having been selected as an Excise Constable pursuant to his application made against Advertisement no. 1 of 2015. The Court finds no merit in the instant application.

18. The application is dismissed.

**(Partha Sarthy, J)**

saurovkrishna/-

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