

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1374 of 2018

In
Civil Writ Jurisdiction Case No.14087 of 2017

-
-
1. The Chairman, Central Selection Board of Constable Sri Sai Tara Complex IAS Colony, Jawahar Lal Nehru Marg, Patna.
 2. The Central Selection Board of Constable through its Secretary, Sri Sai Tara Complex, I.A.S. Colony, Jawaharlal Nehru Marg, Patna.

... .. Appellant/s

Versus

1. Md. Shahzeb Khan Son of Md. Shahjahan Khan, Resident of Village-Kahira, P.O. Adarchak, Police Station- Dumaria, District- Gaya.
2. The State of Bihar through the Home Commissioner, Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The District Transport Officer, Simdega Latehar, State of Jharkhand.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sanjay Pandey, Advocate Mr. Binod Kumar Mishra, Advocate Mr. Vivek Anand Amritesh, Advocate
For the Respondent/s	:	Mr. Nishant Kumar Jha, Advocate Mr. Rajesh Ranjan, Advocate Mr. Wasi Ahmad Khan, Advocate
For the State	:	Mr. Prabhat Kumar Verma, AAG-3

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PURNENDU SINGH)

Date : 04-11-2022

Heard Mr. Sanjay Pandey, learned counsel appearing on behalf of the appellants Mr. Rajesh Ranjan, learned counsel for the petitioner/respondent 1st set and Mr. Prabhat Kumar Verma, AAG-3.

2. The present L.P.A. has been filed by the above named appellant challenging the order dated 20.08.2018 passed



in CWJC No. 14087 of 2017, whereby the learned Single Judge has allowed the writ petition directing that if the petitioner/respondent 1st set appeared in the examination and qualified for the post, the petitioner/respondent 1st set should be given appointment on the post of driver constable and placed in at the right place.

3. The facts relevant for determination of the case may be gleaned from the records of the case are that the Central Selection Board of Constable- Appellant (hereinafter referred to as “Board”) is a recruiting body of constables and is involved in recruitment of constable including driver constable. The Board pursuant to the vacancy for appointment of 1577 Driver Constable in the District Police Force, the BMP Battalion and other units sent to the Board from the police head quarter. The Board initiated recruitment process by publishing an Advertisement No. 01/2016 dated 25.08.2016 for filling up the vacancy by inviting application to be submitted by the aspiring applicants, who have passed 10+2 (Intermediate) or any equivalent examination conducted by any Board/Council recognized by the State/Central Govt. as on or before 01.08.2016. Only those male and female candidates would be eligible for the said post who have minimum one year driving



license before the date of the Advertisement. The other criteria being the age limit as on 01.08.2016 categorically with respect to General Category Male, OBC/EBC Male/Female, Women Unreserved, SC/ST Male/Female. Further five years age relaxation in maximum age limit to the engaged driver on the contract in Bihar Police. The Advertisement further contains the process for direct recruitment for Driver Constable by calling the eligible candidates for Physical Evaluation Test (PET) on the basis of applications received. The successful candidates in Physical Evaluation Test (PET) were required to be called for Vehicle Driving Efficiency Test and merit list is required to be prepared on the basis of marks obtained in Vehicle Driving Efficiency Test. The Board is then required to send a recommendation to the District Superintendent of Police/Commandant of Military Police and other units. The Advertisement also gives other criteria relating to height, chest, physical abilities etc. The merit list is prepared on the basis of Vehicle Driving Efficiency Test in which the candidate has to pass through five tests, for which maximum 50 marks has been allotted. The candidates are given marks on the basis of their performance in the test. The condition relating to date of birth has also been specifically given in the Advertisement and any



discrepancy or mismatch found from the original certificate of 10th Board Examination would automatically amount to rejection of the candidature.

4. The petitioner/respondent 1st set pursuant to the aforesaid Advertisement being Gen-M-HG category candidate submitted his application for the post of Driver Constable in which he has mentioned his date of birth as 3.06.1987 as mentioned in his original certificate of 10th Board Examination. The petitioner/respondent 1st set has given his declaration in Clause-22 of the application form and the Advertisement declaring that if anything found wrong or incorrect, his/her candidature would be rejected and legal action can be initiated.

5. The case of the Board is that during verification and scrutiny of documents, it was found that the date of birth as mentioned in the original application form by the petitioner/respondent 1st set differ from Driving License issued by District Transport Officer, Simdega (Jharkhand). The petitioner/respondent 1st set in his application form has mentioned his date of birth as 03.06.1987, whereas in Driving License issued by the concerned authority, his date of birth was mentioned as 05.06.1987. The petitioner/respondent 1st Set having given false declaration, his candidature was cancelled



and he was disqualified due to 'date of birth' mismatch in application form data with original documents 'in terms of the Advertisement and as per Clause-22 of the application form'.

6. Learned counsel for the appellants contended that the petitioner/ respondent 1st set having given wrong information with respect to his date of birth to the board, the candidature of the respondent was rightly rejected in terms of Clause-22 of the application form and the Advertisement. Learned counsel for the appellant submitted that the Advertisement dated 25.08.2016 provides that the candidate must fulfill all the criteria for the post by 01.08.2016 i.e. date of birth, educational qualification and other information required as per the Advertisement. The last date of submission of application form was 28.09.2016. The petitioner/respondent 1st set had applied on the last date i.e., 28.09.2016 as it would appear from 'Annexure-B' series showing the date and time of transaction No. 1000129899 with respect to submission of form by the petitioner/respondent 1st set. The Advertisement was published on 25.08.2016 and there was sufficient time for the petitioner/respondent 1st set to get his date of birth corrected in his Driving License. The rejection of the claim of petitioner/respondent 1st set is attributable to him only and not to



the appellant. Learned counsel for the appellant further submitted that learned Single Judge erred in holding that “it is well known principal that always the date of birth is known what is mentioned in the certificate of Matriculation and that too in the application form if he gives his date of birth as 05.06.1987 as per renewal of driving license, then he would have committed mistake as in the matriculate certificate his date of birth has been mentioned as 03.06.1987, inasmuch as, the authority concerned has subsequently rectified the mistake”. In this regard learned counsel further clarifies that the learned Single Judge has passed the order ignoring the fact that the petitioner/respondent 1st set has given false declaration affirmed by him in Clause-22 of the application form which disqualifies his candidature due to mismatch of date of birth in application form data with original documents. In this regard he has also relied upon order dated 13.10.2015 and 27.04.2015 passed in CWJC No. 13750 of 2015 and 4166 of 2015. He informs this Court that the Board has published final result on 22.08.2017 in which 1526 candidates have been declared successful out of 1577 vacancies and 51 vacancies have remained unfilled due to non availability of suitable Backward Class lady candidates. The recommendation for appointment has already been sent to the



concerned authorities. Thus, the selection process has been completed.

7. Learned counsel for the petitioner/respondent 1st set submitted that the writ petitioner/respondent 1st set had applied for being appointed as driver constable pursuant to the terms and conditions of Advertisement no. 01 of 2016. He had appeared for the physical test on 09.03.2017 and was found fit. Thereafter the petitioner/respondent 1st set was called for the physical verification of documents and its scrutiny on 05.04.2017. The documents were verified and the authorities were also satisfied by the explanation given by the petitioner/respondent 1st set regarding the mismatch of date of birth appearing in the Matriculation Driving License No. JH2020100012522 and Certificate and had directed him to appear for driving test (DET) on 20.06.2017. He further submitted that the petitioner/respondent 1st set had already given satisfactory explanation before the authorities at the time of verification of document that incorrect date of birth has been mentioned in the Driving License by the office of the District Transport Officer, Simdega in the renewed Driving License No. JH2020100012522 to be 05.06.1987 which had occurred in course of renewal of his driving license no. 8639 issued on



22.07.2010. His original driving license no. 8639 bears the correct date of birth i.e., 03.06.1987 which is the same as the one mentioned in the matriculation certificate. The authorities were satisfied by the explanation given by the petitioner/respondent 1st set by allowing him to appear for the Driving Test held on 20.06.2017. The petitioner/respondent 1st set had passed the test successfully. The petitioner/respondent 1st set successfully passed the driving test. The petitioner/respondent 1st set was surprised to find that his name was not published in the final list of selected candidates for the post of driver constable. It is contended by learned counsel appearing on behalf of the petitioner/respondent 1st set that petitioner/respondent 1st set was not even communicated about the mistake which was detected in the application form submitted by him and without even issuing show cause notice to rectify the same, his candidature was cancelled. He further submitted that learned Single Judge after going through the records of the case and appreciating the fact that the date of birth as mentioned in the Matriculation Certificate issued by the Bihar School Examination Board is the only date of birth known to be correct and if the petitioner/respondent 1st set would have given the date of birth as 05.06.1987 as per renewed driving



license, then he would have committed mistake. The matriculation certificate is universally accepted birth certificate. The petitioner/respondent 1st set has not committed any mistake by giving his date of birth 03.06.1987 as mentioned in the Matriculation Certificate and the rejection of his candidature by the appellant on the ground of that the petitioner/respondent 1st set have been found to have given false declaration cannot be sustained. He further submitted that for the mistake committed by state authorities he should not have been declared disqualified for the post of driver constable once having successfully passed all the tests. Petitioner/respondent has not made any willful or deliberate declaration in Clause-22 of the application form. He further submitted that the District Transport Office, Simdega having realized the mistake has rectified date of birth in his Driving License No. JH2020101058140, already giving correct date of birth as 03.06.1987 and the petitioner/respondent 1st set had submitted that the mismatch of date of birth as pointed out by the Board cannot be held to be attributable to the petitioner/respondent 1st set but the same lies with the D.T.O. Simdega. The said error was also ignored by the authorities in course of selection procedure and after having declared the petitioner/respondent 1st



set to be successful, the rejection of the candidature of the petitioner/respondent 1st set is against the principle of equity. The learned Single Judge has passed a reasoned order in accordance with law and same does not require any interference.

8. Having heard the submissions of parties and perused the materials on record, the petitioner/respondent 1st set had filed the writ petition in which he has prayed for following reliefs:

- I. *For issuance of writ, in the nature of writ of mandamus directing the respondents to include the name of the petitioner/respondent, in the final selection list, prepared by the respondents 3 and 4, for driver constable recruitment, conducted by the respondents 3 and 4, pursuant to the Advertisement no. 01 of 2016.*
- II. *For direction of appropriate writ/ writs, order/ orders, direction/ directions directing the respondents to appoint/ select the petitioner/respondent as Driver constable because he has successfully passed each and every test conducted by the respondent*



board.

III. For issuance of any other relief/ reliefs to which the petitioner/respondent may be entitled to in the facts and circumstances of the case.

9. The fact not in dispute are that the Board had published Advertisement No. 01/2016 dated 25.08.2016 for recruitment of 1577 Driver Constables in the District Police Force, the BMP Battalion and other units pursuant to the selection procedure was to be completed by 28.09.2016. The petitioner/respondent 1st set belonging to Gen-M-HG category candidate and submitted his application form for the said post on the last date i.e., 28.09.2016 in which he has mentioned his date of birth as 03.06.1987. The document verification was done on 05.04.2017. The petitioner/respondent 1st set had appeared in vehicle driving efficiency test on 20.06.2017 and was declared successful. The petitioner/respondent 1st set was disqualified due to “Date of Birth Mismatch in Application Form Data with Original Documents: in terms of the Advertisement and as per Clause-22 of the application form. The reason being that the petitioner/respondent 1st set had mentioned his date of birth 03.06.1987 as per the Matriculation Certificate believing it to be



valid for all purposes and not the date of birth 05.06.1987 mentioned incorrectly in his renewed driving license No. JH2020100012522 available with him at the time of physical verification of the document. The petitioner/respondent 1st set was allowed to take the Vehicle Driving Efficiency Test on 20.06.2017.

10. It may be mentioned here that the Advertisement notice no. 01 of 2016 contained in 'Annexure-A' to the counter affidavit gives detail criteria about the manner in which a candidate is required to submit his application form and the instruction contained therein must be followed strictly failing which the candidature of the applicant would be rejected. Further, the candidates were cautioned that before filling of the form they must ensure that on 01.08.2016 they fulfill all the criteria for applying for the post of Driver constable and in case of any mismatch found at the time of comparing the details of the documents with the details filled in the online application form the candidature of such applicant, who has not followed the instruction would be rejected. The online application was being accepted from 29.08.2016 and the last date for submitting the same was 28.09.2016. From paragraph no. 14 of the counter affidavit it appears that the selection process has already



completed and out of 1577 vacancies 1526 candidates have been declared successful and only 51 vacancies had remained unfilled due to non availability of suitable Backward Class lady candidates.

11. It would be proper to reproduce Clause-22 of the application form which *inter-alia* is as follows:

“22. घोषणा:

एतद् द्वारा घोषणा करता/करती हूँ कि मैं भारत का/की नागरिक हूँ। जहाँ तक मेरी जानकारी और विश्वास है इस आवेदन-पत्र की प्रविष्टियाँ सच्ची, पूरी सही हैं। मैंने परीक्षा के नियमों, विज्ञापन तथा अन्य उपबन्धों को ध्यानपूर्वक पढ़ लिया है और मैं एतद् द्वारा उनके पालन का वचन देता/देती हूँ तथा यह भी इस परीक्षा के लिये मैं किसी अनैतिक साधन का प्रयोग नहीं करूँगा/करूँगी। मैं आज की तिथि में उक्त परीक्षा के लिये निर्धारित आयु सीमा, शैक्षणिक एवं शारीरिक योग्यता आदि से सम्बन्धित पात्रता की शर्तों को पूरा करता/करती हूँ। उम्मीदवारी के लिये आवश्यक सभी प्रमाण-पत्र मेरे पास हैं और चयन पर्षद द्वारा परीक्षा के पूर्व अथवा उसके बाद जब उनकी माँग की जायेगी तब मैं उन्हें उपलब्ध कराऊँगा/कराऊँगी अन्यथा चयन पर्षद मेरी उम्मीदवारी रद्द कर सकेगा। यदि कोई सूचना झूठी या गलत पाई जाये या परीक्षा से पहले या बाद में अपात्रता का पता चल जाये तो चयन पर्षद मेरी उम्मीदवारी रद्द करने के साथ-साथ मेरे विरुद्ध आवश्यक कानूनी कार्रवाई कर सकता है। मैं यह ए घोषणा करता/करती हूँ कि इस परीक्षा के लिये मैंने मात्र एक ही आवेदन-पत्र दिया है।”

12. From the perusal of the terms of Clause-22 which contains the declaration to be made by the candidate must be correct and disqualifies the candidature of an applicant in case if wrong and incorrect declaration has been made in the application form regarding date of birth, educational



qualification, Physical Eligibility etc.

13. The petitioner/respondent 1st set was required to follow the terms and conditions of the Advertisement and must have ensured that before 01.08.2016 he had fulfilled all the requisite criteria for the post of Driver Constable and all the testimonials were in order and then only he would have made declaration in the manner prescribed in Clause-22 of the online Application Form. Much time was available with the petitioner/respondent 1st set to verify his original documents more particularly the date of birth mentioned in the driving license as he was aspiring to be selected to the post of Driver Constable. The Advertisement was published on 25.08.2016 and the date of filling of the online application form started from 29.08.2016 and last date was 28.09.2016, during which period the petitioner/respondent 1st set would have rectified his date of birth in his driving license but he failed to do so, as such, the petitioner/respondent 1st set now cannot claim that he had been denied equity because he had successfully passed all the tests and he had given correct date of birth 03.06.1987 as per his Matriculation Certificate. No doubt the Matriculation Certificate is universally accepted document but in the facts and circumstances of the present case the rejection of the



appointment is attributable to the petitioner/respondent 1st set who has failed to follow the terms and conditions of the Advertisement No. 01/2016 dated 25.08.2016 by making false declaration.

14. The Hon'ble Apex Court in the case of ***Union of India vs. Mahendra Singh*** – CA No. 4807, SLP No. 19886 of 2016, decided on 25.07.2022, wherein Apex Court has held that candidature instructions in the matter of selection and appointment were required to be adhered strictly in terms of instructions. The aforesaid principles laid down by the Apex Court is squarely applicable to the case in hand.

15. Thus, in view of the law laid down by the Apex Court, this Court finds that the learned Single Judge has not only committed mistake of error of law but at the same time by ignoring the fact that the petitioner/respondent 1st set had made incorrect declaration at the time of filling of the online application form and had allowed the writ petition by holding that the petitioner/respondent was found qualified for the post and had also rectified the mistake subsequently in his driving license in regard of his date of birth.

16. This Court finds that the petitioner/respondent 1st set has also mislead this Court by bringing two driving



licenses in support of his contention that at the time of verification he had shown driving license in which his date of birth is mentioned 05.06.1987, and that was issued by the D.T.O., Simdega, Jharkhand (Annexure-6) and, thereafter, he got issued another driving license giving correct date of birth 03.06.1987 (Annexure-7). On perusal of Annexure-6, it appears that the driving license is valid for the period 16, February, 2020 till 16, February 2037 and the address of the petitioner/respondent mentioned therein is At-Khajra, Dumaria, Gaya and the issuing authority is D.T.O. Simdega, Jharkhand, similarly Annexure-7 which as per the pleading made in paragraph no. 19 of the writ petition, the same has been issued by D.T.O. Simdega, Jharkhand on 22.10.2010 after rectification of his date of birth to be 03.06.1987 is valid for the period 22 February, 2020 till 22 February, 2020 issued by D.T.O. Simdega, Jharkhand and his address is mentioned as Bhandara, Lohardaga, JH 835302. This Court not only finds that the petitioner/respondent 1st set has given false declaration in Clause-22 of the application but he has committed fraud by producing forged driving license valid for the anterior periods duly issued by the D.T.O. Simdega, Jharkhand who has no such jurisdiction.



17. The petitioner/respondent has committed fraud by obtaining favourable order from learned Single Judge in CWJC No. 14087 of 2017, dated 20.08.2018 by producing invalid/forged Driving License and on this score also the order dated 20.08.2018 passed by learned Single Judge in CWJC No. 14087 of 2017 cannot be sustained in law and same is set aside. The writ petition is dismissed. Consequently the appeal is allowed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	15.11.2022
Transmission Date	N.A.

