

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.126 of 2018

Rajkishore son of Sri Asharif Yadav, resident of Village- Vajidpur, P.S. Bahadurpur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director General Police, Bihar, Patna.
3. D.I.G. Military Police Uthari Mandal Muzaffarpur.
4. The Commandant B.M.P. 13 Darbhanga.
5. Ali Imam, son of not known working on the post of Cook in B.M.P. 13, Darbhanga, through Commandant B.M.P. 13, Darbhanga.
6. Ramnaresh Bhagat, son of not known working on the post of Cook in B.M.P. 13, Darbhanga, through Commandant B.M.P. 13, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shruti Sinha
For the Respondent/s : Mr.Sheo Shankar Prasad -Sc8

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 29-11-2021

In the instant petition, petitioner has sought for following relief/reliefs:

“This is an application for issuance of an appropriate writ order or direction to the respondents to produce copy of memo no. 129/go dt. 30.12.04 issued by D.I.G. Military police north zone Muzaffarpur and there after to quash the same as copy of the same has not been granted to the petitioner and also the same has been passed without giving the petitioner to present his stand which is illegal and further for a direction for quashing memo no. 183/Ra Ka dt. 29.1.15 whereby the petitioners appointment in view of above order of D.I.G has been declared to have ended automatically as the same is also illegal i.e. Annexure-6 and for further direction to the respondents to appoint the petitioner on the post of cook in B.M.P. 13 Darbhanga with all consequential benefit and to remove either Ram Naresh Bhagat or Ali Imam and appoint the petitioner in either’s place or any other order



or orders which this Hon'ble court may deem fit and proper under the circumstances of this case.”

The petitioner is a candidate for the recruitment to the post of cook in the Bihar Military Police. He was selected and appointed on 13.03.2013. Thereafter, it was noticed that the appointment of the petitioner was not in accordance with law that is on merit, therefore, the concerned respondent proceeded to terminate the services of the petitioner on 29.01.2015 without notice and it is further submitted that award of marks is not in terms of the procedure laid down. On these two grounds the order of termination is liable to be set aside.

Per contra, learned counsel for the respondents was asked to secure original records relating to award of marks. He has placed on record.

Perusal of necessary documents, it is evident that award of marks is in the form of A, B, C, D. While appointing the selected candidates, for the sake of convenience respondents have identified the grade as 1A, 2A etc.

It is submitted that merely change of grading and its nomenclature does not vitiate the selection procedure. It is further submitted that even assuming that if petitioner is provided an opportunity of hearing before his termination, he is not in a



position to improve the award of grading. Therefore, there is no infirmity in the order of termination dated 29.01.2015.

Heard learned counsel for the respective parties. Undisputed facts are that the petitioner is a candidate for recruitment to the post of cook in the Bihar Military Police so also respondent Nos. 5 and 6. Inadvertently the petitioner was appointed on 13.03.2013 ignoring the original records relating to award of marks. The same was taken note of by the official respondent. In the result the petitioner's services was terminated on 29.01.2015.

Learned counsel for the petitioner submitted that order of termination is without notice and there is procedural irregularities in awarding marks. In respect of no notice before order of termination concerned, no doubt if an order is passed affecting the right of persons entitled to notice, the same principle cannot be applicable to the case in hand for the reasons that records reveals that petitioner has scored lessor marks than the 5th and 6th respondents even though it is awarded as 1A to the petitioner where as respondent Nos. 5 and 6 have been awarded 2 A respectively. If an opportunity of hearing is given to the petitioner he is not in a position to improve the aforesaid award or marks. Mere procedural lapses relating to award of grading like A,



B, C, D and re-determining it as 1A, 2A that does not vitiate the selection procedure since the official respondents initially they have followed the procedure in awarding grade like A, B, C, D, as is evident from Annexure E.

In the light of these facts and circumstances, the petitioner has not made out a case. Hence writ petition stands dismissed.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.12.2021
Transmission Date	NA

