

**Munna Ram and anr. Vs. Union of India (Uoi) and ors.**

**Munna Ram and anr. Vs. Union of India (Uoi) and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/772945](http://sooperkanoon.com/772945)

**Court :** Rajasthan

**Decided On :** Aug-23-2001

**Reported in :** 2001(3)WLC606; 2002(1)WLN280

**Judge :** AR. Lakshmanan, C.J.; and Bhagwati Prasad, J.

**Appeal No. :** D.B. Civil Special Appeal (Writ) No. 355 of 2000

**Appellant :** Munna Ram and anr.

**Respondent :** Union of India (Uoi) and ors.

**Judgement :**

AR. Lakshmanan, C.J.

1. This appeal is directed against the order dated 21st February, 2000 passed by Hon. Mr. V.G. Palshikar, J. dismissing the writ petition on the ground that the appellant having accepted the benefits of appointment to the post of Constable cannot round out to the post of Head Constable.

2. The appellants petitioner applied for the post of Wireman/Lineman in the rank of Head Constable in pursuance of the advertisement dated 14.10.1994. According to the appellants they have qualified and satisfied all the general eligibility conditions and were successful in the selection process after passing the required test and interview. However, by an order dated 10.12.1994 they were declared selected on the rank of Constable instead of Head Constable/Naik for

Wireman/Lineman for which they have actually applied and appeared during the recruitment process. The appellants joined the duties and thereafter raised their protest with the authorities by submitting applications against their grievance which was rejected on 9.9.1999 stating that their claim could be considered for a fresh appointment on the post of Head Constable when it arose. Being aggrieved, the petitioners preferred the writ petition which was dismissed by the learned Single Judge on the ground that since the appellants had accepted the appointment, they could not now raise the grievance. Aggrieved by the said order the present appeal has been filed by the appellants.

3. Mr. Pushpendra Singh learned Counsel for the appellants submitted that the respondents have committed an outright illegality by advertising the post of Head Constable Wireman/Lineman and conducting the selection process for the same but giving appointment on the lower post of Constable. It is further submitted that the appellant had accepted the appointment on the lower rank due to their sheer helplessness, poverty and being unemployed, which forced them to join.

4. Since the writ petition was dismissed at the admission stage the respondents filed reply to the special appeal.

5. According to Mr. Ravi Bhansali, learned Counsel for the respondents, the respondents had been selected for the post of Constable (Wireman/Lineman) and directed them to join the Department by 30.11.1994 if they were willing for appointment as Constable and the appellants, accordingly, reported at Frontier HQ BSF, Jodhpur on 15.11.1994 and 21.11.1994 respectively, for getting appointment as Constable and on 10.12.1994 the appellants were appointed as Constable with effect from 15.11.1994 and 21.11.1994 respectively. According to Mr. Bhansali, the Board, after selection test, selected and recommended the appellants for their recruitment as Constable (Wireman/Lineman) against vacancies of Head Constable/Naik (Wireman/Lineman) as per their performance in selection test and, thereafter, they were directed to join the Department by 30.11.1994 if they were willing for appointment on the said post (Annex. R/1 and R/2 respectively). Accordingly, the appellants reported at Frontier HQ BSF, Jodhpur for joining the post of Constable. By order dated 7.12.1994 the appellants were directed to report

to Sector HQ., BSF Bikaner and the said HQ was directed to issue their appointment orders. The said movement order is annexed and marked as Annex. R/3. Likewise, HQ BSF, Bikaner, vide order dated 10.12.1994 appointed the appellants as Constables respectively as per their dates of arrival (Annex. R/4). Thus, it is seen that the appellants, who wilfully joined the Department as Constable and accepted the appointment, cannot now come round and say that their appointments are illegal since they are better qualified for consideration for appointment as Head Constable.

6. We see merits in the submissions made by the learned Counsel for the respondents. In the instant case, the Selection Board recommended for appointment all the appellants as Constables (Wireman/Lineman) against the post of Head Constable/Naik (Wireman/Lineman) in PAP Sector of BSF as per their performance in the selection test. The petitioner- appellants also accepted their appointment willingly and their protest was also considered by the competent authorities and they were informed that whenever such posts would be vacant and filled up by technical staff, they would be informed.

7. Under these circumstances, we are of the opinion that the learned Single Judge has rightly dismissed the writ petition. In our opinion, the appellants have been given appointment, for which they were entitled to, as found by the Selection Board. Having accepted appointment on the post of Constable they cannot claim the post of Head Constable and therefore in our view, the appeal deserves to be dismissed. Accordingly we do so.

8. In our view, once the appellants accepted the post, their right to be considered for appointment on a higher post was consummated and, therefore, no consideration of appointment for the higher, post on the basis of the higher qualification, would arise for consideration. It is true that the appellant had applied for the post of Head Constable. It is not in dispute that the respondents have recommended the name of the appellants, selected them and recommend their names for appointment for the post of Constable, as the Department was of the view that the appellants were eligible for appointment on the post of Constable only, they were given appointment on the said post. In our opinion, since the

benefit of appointment to the post of Constable had already been availed by the appellants, they are not now eligible for consideration and appointment to the higher post at this stage. The appellants, as already noticed, had joined the post without any protest, reservation or murmur and their subsequent representation, two days after joining the post, in our view, were only an afterthought.

9. While considering the name of the appellants for the post of Constable, the authorities had considered their eligibility qualifications and the appellants were rightly offered the post of constable. The appellants having accepted such appointment, cannot now be allowed to turn round and claim appointment on a higher post. The appellants are not entitled to a higher post of their choice, merely because they fulfil the requisite eligibility qualifications for the post of Head Constable. What is important is that the appellants, when they were offered appointment on the post of Constable, readily and voluntarily accepted the offer and pursuant to the appointment, joined the post. Mere repeated representations thereafter do not give rise to any fresh cause of action in their favour. There is no vested right in the appellants for a particular appointment for a particular post.

10. There is no merit in the appeal. The appeal fails and is dismissed.

No costs.

However, we make it clear that the respondents, as mentioned in their reply affidavit, may consider the names of the appellants for the higher post, whenever such posts would be vacant, and the appellants would be informed to send their applications as and when any advertisement for filling up the posts of Head Constable is given in any Newspaper.

The appeal is disposed of accordingly.