



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)

Case No. : WP(C)/4940/2020

SAITYANAYA DOLEY
ROLL NO 5102008906, S/O- DIMBEDHAN DOLEY, R/O- VILL- DIHINGMUKH,
RONUABARI, P.O. DIHINGMUKH, DEMOW, DIST.- SIVASAGAR, ASSAM,
PIN- 785671

VERSUS

THE UNION OF INDIA AND 4 ORS.
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, NEW DELHI, PIN- 110001

2:THE STAFF SELECTION COMMISSION (SSC)
REP. BY THE CHAIRMAN/ SECY.
STAFF SELECTION COMMISSION
BLOCK-12
CGO COMPLEX
LODHI ROAD
NEW DELHI- 110003

3:THE REGIONAL DIRECTOR (NER)
STAFF SELECTION COMMISSION
P.O. RUKMINI NAGAR
SACHIVALAYA
GHY-06 ASSAM

4:THE DIRECTOR GENERAL
CENTRAL RESERVE POLICE FORCE
CGO COMPLEX
NEW DELHI

5:THE PRESIDING OFFICER
ASSAM RIFLES COMPOSITE HOSPITAL
SHOUKHUVI CENTRE
DIMAPUR
NAGALAND
PIN- 79711

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

21.03.2023

Heard Mr. H. Bezbarua, learned counsel for the petitioner. Also heard Mr. B. Chakraborty, learned Central Govt. Counsel appearing for the respondents.

The petitioner herein had participated in the recruitment process for appointment of Constable (GD) in the Central Armed Police Forces including the NIA, Secretariat Security Force and Rifleman (GD) in the Assam Rifles. The petitioner had cleared the written examination as well as the physical efficiency test but the medical test which was conducted at the final stage had found the petitioner unfit to be appointed as a Constable (GD) on account of the fact that he was suffering from the medical deficiency viz. "Glanular Hypospadias". The petitioner had appealed before the Review Medical Board against the opinion of the Medical Board declaring him as an unfit candidate but even the Review Medical Board had confirmed the opinion of the Medical Board and declared him as unfit on the same count. Assailing the said decision, the petitioner is before this Court inter-alia contending that the doctors consulted by the petitioner in the Civil Hospitals have found him not to be unfit due to the aforesaid disease and therefore, had the authorities included a specialist in the Medical Board/Review Medical Board, in all probability, the opinion of the Board would have been different thereby paving the way for the petitioner to get appointed in the Force.

Mr. B. Chakraborty, learned Central Govt. Counsel has obtained instruction and submits that as per the guidelines prepared by the authorities "Glanular Hypospadias" is a medical deficiency which is sufficient to declare a candidate unfit. Mr. Chakraborty submits that there are discrete reasons for including certain diseases as the ground to declare a candidate medically unfit since the authorities do not want to fill the posts of constable with persons who may be rendered unfit to discharge their duty in various harsh conditions and also so as to obviate the possibilities of early retirement of a large number of constables in the Force due to medical reasons. Mr. Chakraborty also submits that the advertisement was issued in the year 2018 and all the vacancies have, in the meantime, been filled up. As such, there is no scope of accommodating the writ petitioner in any post as there is no vacancy.

The first and foremost issue that calls for resolution in this proceeding is as to whether the disease viz., "Glanular Hypospadias" is one of the medical conditions which can render a candidate to be declared "unfit" for the purpose of induction into the Force. The answer to the said question is undoubtedly in the affirmative since the guidelines themselves clearly provided so. The next issue is as to whether, the authorities have flouted the requirement of the Rules while subjecting the petitioner to medical examination. Here also, this Court finds that the answer has to be in the negative since there is no allegation made by the petitioner that the Medical Board/Review Medical Board had not complied with the mandate of the Rules while examining the petitioner.

Although the learned counsel for the petitioner has urged that the respondents ought to have included a specialist in the Medical Board, yet, he has failed to point out any such requirement in the Rules/guidelines.

In so far as the opinions of the doctors in the Civil Hospitals are concerned, their opinion, apart from being tentative in nature, cannot have a clinching value in this case since the Medical Board is constituted under the relevant guidelines by keeping in mind the special requirements of the Force and therefore, it's opinion would undoubtedly adhere to a different standard as compared to doctors in the civil hospital. Even if there is a difference of opinion between the two sets of doctors, even then, the opinion of the Medical Board, constituted by the respondents as per the guidelines, in the opinion of this Court, would have primacy and therefore, would be of paramount consideration in this case. The fact remains that both the Medical Boards constituted by the respondents have unequivocally opined against the writ petitioner and there is no cogent material available on record so as to discard the opinion of these Medical Boards.

The petitioner has not urged any arbitrary exercise of power or discriminatory treatment on the part of the authorities. Therefore, this Court is of the unhesitant opinion that there is no scope for this Court to issue a writ of mandamus directing the respondents to appoint the petitioner in the attending facts and circumstances of the case. Consequently, this writ petition fails and is hereby dismissed.

JUDGE

Comparing Assistant