

GAHC010120012016



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

Case No. : WP(C)/6339/2016

SULEMAN UDDIN MIA
S/O LT. MANIR UDDIN MIA, R/O KOYAH T.E., P.O. KOYAH T.E., P.S.LALA,
DIST- HAILAKANDI, PIN-788164, ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS
REP. BY THE SECY. , MINISTRY OF DEFENCE, RAKSHA MANTRALAYA,
NEW DELHI-1

2:THE DIRECTOR GENERAL
HQ
DIRECTORAL GENERAL ASSAM RIFLES
LAITKOR
SHILLONG-733010

3:THE RECRUITMENT OFFICER
HQ
DIRECTORAL GENERAL ASSAM RIFLES
RECRUITMENT BRANCH
HQ
DGAR
LAITKOR
SHILLONG-733010

4:REGIONAL COMMISSIONER
SSC
NORTH EASTERN REGION
WESTERN BLOCK HOUSEFED COMPLEX
SURVEY
BELTOLA
GHY-6

5:REVIEW MEDICAL EXAMINATION BOARD
REP. BY RME
SSC
RALLY 2015-16
ASSAM RIFLES COMPOSITE HOSPITAL SUKHOVI B-2-5199
DIMAPUR
NAGALAN

Advocate for the Petitioner : MR.R A AHMED

Advocate for the Respondent : MR.S C KEYAL

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 20.06.2024

Heard Mr. A. Paul, learned counsel for the petitioner. Also heard Mr. K.K. Medhi, learned counsel, appearing on behalf of Mr. S.K. Medhi, learned CGC.

2) The petitioner had participated in the Central Armed Police Force (CAPFs) recruitment process for the year 2015 and applied for appointment as Constable (GD) in CRPF/ NIA/SSF and Rifleman in Assam Rifles Examination, 2015. The petitioner had qualified in Physical Efficiency Test (PET) and Physical Standard Test (PST). However, at the time of his medical examination on 02.06.2016, the petitioner was found unfit due to (i) perforated tympanic membrane (right ear), and (ii) cubitus valgus $>30^{\circ}$ carrying angle $<RT-32'$ and $LT\ 35'$. He was served with a copy of the "Memorandum of Unfit". He was also put to notice of his right to file an appeal for review medical examination in a manner which was stated therein.

- 3) Perforated tympanic membrane (right ear) is the medical term to denote hole in the tissue that separates the outer ear from the middle ear.
- 4) From the documents annexed to the writ petition it appears that on 09.06.2016, the petitioner got himself admitted in a private hospital at Silchar, where "myringoplasty (RT)" was performed. It is a surgical procedure by which closure of the perforation of hole in the eardrum is performed, which is done by placing a graft.
- 5) The petitioner was called for review medical examination on 07.09.2016 at Assam Rifles Composite Hospital, Dimapur. Upon his review medical examination, he was served with a report under Form-4, where the final opinion was that the petitioner was suffering from low hearing and therefore, declared unfit for "Com (RT) operated less than 4 months. The X-ray report was attached thereto.
- 6) The learned counsel for the petitioner had submitted that as the Review Medical Examination Board was aware of his surgery conducted on 09.06.2016, the said authority should have called the petitioner for review medical examination after 120 days from 09.06.2016. It was submitted that there is a Guidelines for Recruitment Medical Examination in CAPFs and Assam Rifles, published on 20.05.2015. As per Clause 7(g), "healed tympanic membrane perforation" would entitle candidature of the petitioner acceptable as a minor defect. However, the Review Medical Examination Board had taken recourse to Clause 9(3)(iv) of the said guidelines, whereby it is prescribed that "existing perforation of the tympanic membrane or history of surgery to correct perforation during the preceding 120 days would lead the candidate to be declared unfit. Hence, it was submitted that the Review Medical Examination Board ought to have waited for 120 days from 09.06.2016 for holding the

Review Medical Examination.

7) In support of his submission, the learned counsel for the petitioner had relied on the decision of this Court in the case of *Amrit Barman & Anr. v. Union of India & Ors., 2016 (2) GLT 1129*.

8) It is not the case of the petitioner that he had made a request to hold his Review Medical Examination after 120 days from 09.06.2016. Therefore, it cannot be said that the authorities made any error to hold the Review Medical Examination on 07.09.2016.

9) In the said regard, it may be stated that for the reasons best known to the petitioner, he has withheld the prescribed Form-3 in this writ petition, which is mandatorily required to be submitted for holding a Review Medical Examination. The explanation of the learned counsel for the petitioner that the necessary form was submitted by the petitioner is not in dispute is not acceptable because the Court has been deprived of knowing what was the contents of the said Form-3, and enclosures thereto, if any. Therefore, the Court has no material to presume that the petitioner had made a request to hold his Review Medical Examination for 120 days after 09.06.2016.

10) In the recruitment of CAPFs and Assam Rifles, a huge number of candidates make application for appointment. Therefore, everything must be done in a time bound manner so that the result of the recruitment examination is declared at the earliest.

11) Therefore, after the result of Review Medical Examination was declared on 10.09.2016, it would not be open to the petitioner to assail the said report on the ground that the said Review Medical Examination ought to have been conducted after 120 days from 09.06.2016.

12) The case of *Amrit Barman (supra)* is nowhere close to the facts of this case. In the said case, this Court had held that the Review Medical Examination Board having found the concerned candidate medically fit, had exceeded its brief to declare the candidate unfit due to overage. Thus, the said case does not help the petitioner in any manner.

13) This is not a case where the Court should interfere with the finding of the Review Medical Examination Board, because the Board's finding is appropriate under Clause 9(3)(iv) of the said 2015 Guidelines.

14) Accordingly, this writ petition fails and is dismissed without any order as to cost.

JUDGE

Comparing Assistant