

GAHC010179882023



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

Case No. : WP(C)/4738/2023

SHAILENDRA KUMAR
S/O- NAVEEN PRAKASH, PLOT NO 220, GULAB VATIKA MANCHWA
KALWAR ROAD JAIPUR, RAJASTHAN, PIN-302012,
REJECTED FROM ASSAM RIFLES RECRUITMENT RALLY 2022-2023
CONDUCTED AT ASSAM RIFLES TRAINING CENTRE AND SCHOOL,
SHUKHOVI, PRESENTLY RESIDING AT JAYANAGAR, KHANAPARA,
GUWAHATI, ASSAM

VERSUS

THE UNION OF INDIA AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
INDIA, MINISTRY OF HOME AFFAIRS, NEW DELHI-01

2:THE DIRECTOR GENERAL
ASSAM RIFLES
HEAD QUARTER DIRECTORATE GENERAL
ASSAM RIFLES
SHILLONG-11

3:THE COMMANDANT
PRESIDING OFFICER
OF ASSAM RIFLES TRADES AND TECHNICAL RECRUITMENT RALLY
ASSAM
RIFLES TRAINING CENTRE AND SCHOOL
SHUKOVI
DIMAPU

Advocate for the Petitioner : MR V KUMAR

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

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

10.01.2024

Heard Mr. B. Pathak, learned counsel for the petitioner. Also heard Mr. A. K.

Dutta, learned Central Government Counsel appearing for the respondents.

2. The facts of the case, in a nutshell, are that the respondents had issued an advertisement notice dated 15.02.2023 for conducting recruitment for filling up the post of Havildar/Clerk in the Assam Rifles Technical and Tradesman Recruitment Rally 2023-24. The petitioner belongs to the OBC category and he had participated in the said selection process as a candidate from Rajasthan whereafter, he had emerged as a successful candidate. However, the petitioner was denied appointment letter on the ground that he was found to be medically unfit by the Medical Board constituted by the respondent authorities as he was detected to be suffering from "Tachycardia – MIIDMR".

The finding of the Medical Board was subsequently affirmed by the Review Medical Board. Thereafter, the petitioner was examined by the Specialist doctors in Swai Man Singh Hospital, Jaipur and found to be medically fit.

According to the petitioner, the disability found by the departmental Medical Board was not based on correct assessment of his physical conditions. In other words, according to the petitioner, he was erroneously found to be medically unfit. Under the circumstances, the petitioner prays for an order from this Court directing the respondents to subject him to a fresh medical examination by a specially constituted Board so as to assess his physical condition for the purpose of considering as to whether the petitioner is fit to be appointed.

3. In support of his above argument, Mr. Pathak has invited the attention of this Court to the order dated 27.05.2022 passed by the learned Single Judge in WP(C) No.2803/2022 wherein, a similarly situated candidate was granted relief, as prayed for, by the writ petitioner. Mr. Pathak submits that the present is a fit case where a fresh Appeal/Review Medical Board be constituted to examine the medical fitness of the petitioner in a time bound manner.

4. Mr. Dutta, learned Central Government Counsel, has submitted that since similar orders have been passed by this Court in cases of similarly situated candidates, he would have no objection if the present writ petition is also disposed of in similar lines.

5. I find from the record that the petitioner in WP(C) No.2803/2022 was also a candidate, who had participated in the Assam Rifles Technical and Tradesman Recruitment Rally 2021-22 against unreserved category vacancy for the State of Telangana. He had emerged as a successful candidate but was denied appointment order on the ground that he was found to be medically unfit by the departmental Medical Board. Aggrieved thereby, the petitioner had approached this Court by filing the aforesaid writ petition, which was allowed by the learned Single Judge with the following directions :-

“10. Accordingly, the respondents are directed to constitute a fresh Appeal/Review Medical Board to examine the medical fitness of the petitioner, within a period of four weeks from the date of receipt of a certified copy of this order.

11. The findings of the Appeal/Review Medical Board will be final and binding with regard to whether the petitioner can be recruited in terms of the advertisement dated 14.10.2021, for filling up vacancies of Assam Rifles Technical & Tradesmen.

12. This order has been passed in the peculiar facts and

circumstances of the present case and shall not be treated as a precedent. The writ petition accordingly stands disposed of.

13. The letter dated 24.05.2022 issued by the A Branch (Rect. Cell) and the forwarding letter dated 27.05.2022 issued by the Directorate General Assam Rifles, Shillong are made a part of the record and marked as Annexure-X collectively.”

6. Since the petitioner's case also apparently stands on an equal footing and the learned departmental counsel has agreed to an order being passed in the present proceeding in the line of the earlier order of this Court, this writ petition stands disposed of by providing that a fresh Appeal/Review Medical Board be constituted so as to examine afresh, the medical condition of the petitioner and thereafter, his case be processed in terms of the guidelines laid down in the judgment and order dated 27.05.2022 passed in WP(C) No.2803/2022 as expeditiously as possible, but not later than four months from the date of receipt of a certified copy of this order.

With the above observation, this writ petition stands disposed of.

JUDGE

Comparing Assistant