

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.714 of 2024

Surajit Das,
S/o. Subal Das,
R/o. Simna Colony Habitation,
Simna Gram Panchayat, Mohanpur, West Tripura District, Tripura,
PIN- 799212.

.....Petitioner(s)

- V e r s u s -

- 1. The Union of India,**
To be represented by the Secretary, Department of Personnel and Training, Government of India, Room No:113, North Block, New Delhi - 110001.
- 2. The Secretary, Department Home,**
Govt. of India, Room No:101, North Block, New Delhi, PIN - 110001.
- 3. The Secretary,**
Staff Selection Commission, Ministry of Personnel, Public Grievance & Pensions, Govt. of India, Block No:12, CGO Complex, Lodhi Road, New Delhi - 110003.
- 4. The Under Secretary,**
Staff Selection Commission, Ministry of Personnel, Public Grievance & Pensions, Govt. of India, Block No:12, CGO Complex, Lodhi Road, New Delhi - 110003.
- 5. The Director General of Assam Rifles (DG AR),**
Pomlakrai, Meghalaya, PIN - 793010.
- 6. Review Medical Examination Board,**
For the Examination of Constable (GD) Exam, 2024, to be represented by the CMO(SG) RME Board of CT(GD) Examination, 2024, BSF Salbagan, Agartala, West Tripura, PIN - 799012.
- 7. The Directorate General Central Reserve Police Force,**
CGO Complex, Pragati Vihar, New Delhi, Delhi, PIN - 110003.

..... Respondent(s)

For the Petitioner(s)	:	Mr. Purusuttam Roy Barman, Sr. Advocate. Ms. Aradhita Debbarma, Advocate.
For the Respondent(s)	:	Mr. Bidyut Majumder, Deputy SGI.
Date of hearing and delivery of Judgment & Order	:	8th August, 2025.
Whether fit for reporting	:	NO

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (Oral)

Heard Mr. Purusuttam Roy Barman, learned senior counsel appearing for the petitioner and Mr. Bidyut Majumder, learned Deputy SGI appearing for the respondents.

2. Mr. Roy Barman, learned senior counsel submits that the petitioner was an aspirant for the post of Constable (GD) in the Armed Forces in respect of an advertisement dated 24.11.2023 (Annexure-1 of the writ petition), and he duly passed the Computer based Examination and Physical Standard Test in the selection process but was declared unfit in medical examination conducted by Review Medical Board, vide report dated 08.10.2024 (Annexure-R/2 to the writ petition) on the ground of "Left Ear Tympanic Membrane Central Perforation". Mr. Roy Barman, learned senior counsel also relies on another report of the Medical Officer, ENT Specialist of AGMC & GBP Hospital, Govt. of Tripura dated 23.10.2024 (Annexure 8 to the writ petition) whereby the petitioner was declared as fit to undergo para-military training having no perforation in his left ear. In such circumstances, referring to the guidelines for Review Medical Examination (Annexure 9 to the writ petition) issued by Ministry of Home Affairs, Govt. of India, dated 31.05.2021, learned senior counsel submits that necessary directions may be issued for constituting a Medical Board at GBP Hospital for examination of the petitioner, with further direction to the respondents to act in accordance with the report of the said Medical Board.

3. Mr. Majumder, learned Deputy SGI referring to the counter affidavit submitted by respondent no.6, argues that after the petitioner was declared unfit in his Detailed Medical examination (DME) by the concerned medical officer, he was further examined by the Review Medical board, who sent the petitioner to GBP Hospital for his examination, following the above said guidelines issued for Review Medical Examination (RME) in CRPF and Assam Rifles. The Medical examination report from GBP Hospital was supposed to be received by Review Medical Board on 17.10.2024, but as same was not received on that day during the working hours, the petitioner was again referred by

said Review Medical Board to GBP Hospital for examination on 18.10.2024 for such opinion. Meanwhile, in the evening of 17.10.2024, the Review Medical Board received the report from GBP Hospital issued by a Specialist Doctor, wherein the Review Medical Board declared the petitioner to be unfit on the ground of "Left Ear Tympanic Membrane Central Perforation". Thereafter, the said Review Medical Board also received another report of examination done by another medical officer of said GBP Hospital (part of Annexure 9), on the basis of their second requisition, wherein the Specialist Medical Officer opined that the ear of the petitioner was normal. Learned Deputy SGI submits that the Review Medical board accepted the former report and declared the petitioner unfit.

4. Learned Deputy SGI also argues that, as per the guidelines, the first report of the Specialist Doctor of GBP Hospital was based on one audiometric test, and therefore, as per the said guidelines issued for Review Medical Examination, there was no further scope of re-examination of the petitioner by the Specialist Doctor of Govt. Hospital. Learned Deputy SGI urges for dismissal of the writ petition. He also relies on the decision of ***Sumit vs. Union of India and others, Letters Patent Appeal No.871 of 2022 (O&M)***, decided on 24.04.2023 by the Division Bench of Punjab & Haryana High Court, wherein the petitioner was an aspirant for appointment in Indian Air Force, which required a very high degree of medical fitness and in his medical examination, he was declared unfit on account of 'CVS REVIEW' (Cardiovascular Status) and 'Hyper Hydrosis'. Said petitioner was also examined by the Appellate Medical Board, and the Appellate Medical Board also found him unfit on the same ground. Finally, the matter was challenged before the High Court and on consideration of the facts of said case, High Court found no illegality or infirmity to interfere in the

order of learned Single Judge who rejected the said writ petition on the ground that the said appellant was examined twice - firstly by the Recruitment Medical Board and thereafter by the Appeal Medical Board and the said Appeal Medical Board also obtained opinion from the Command Hospital, Eastern Command, Kolkata and thereafter took the decision in this matter, therefore, there was no reason to interfere with the same. Learned Deputy SGI also relies on another decision of Calcutta High Court, rendered in ***Union of India and Ors. vs. Yogesh Chhetri and Anr., MAT 2154 of 2023***. In said case the private respondent was declared medically unfit in similar type of recruitment process, by both the initial medical board and also by Review Medical Board and in that contexts the High Court observed that the rules governing such selection process did not permit formation of a fresh medical board. It allows an aspirant to be medically examined by the initial medical board and if the aspirant is dissatisfied with the finding of the initial medical board, to approach the review medical board for reconsideration of the decision. But the rules governing the selection process does not permit formation of a fresh medical board. Learned Deputy SGI submits that said order was challenged before the Hon'ble Apex Court in case of ***Union of India and Others vs. Yogesh Chhetri and Another, 2025 SCC Online SC 1469***, Hon'ble Supreme Court declined to interfere with the impugned judgment.

5. The Court has given due consideration to the submissions of learned counsel of both sides. The factual backgrounds of the cases referred by learned Deputy SGI are not similar to the present case in hand. In those cases, both the initial medical board and review medical board found the concerned candidate physically unfit whereas, in our case in hand, when the Review Medical Board itself referred the petitioner twice for examination by a Specialist Doctor at GBP Hospital,

Agartala, two contradictory reports were submitted by two such Specialist Medical Officers. As it appears, the first report of the medical officer of GBP Hospital, did not directly note down any specific opinion that the petitioner was suffering from Left Ear Tympanic Membrane Central Perforation, rather medical officer mentioned certain indications in the report dated 17.10.2024 regarding the result of such examinations based on which the Review Medical Board came to the conclusion that the petitioner was suffering from Left Ear Tympanic Membrane Central Perforation. The second report dated 18.10.2024, issued by another medical officer of said Hospital just on the following shows that, upon examination of ear of the petitioner, he found the same to be normal. As indicated above, both the reports are contradictory to each other issued just within a gap of one day by the medical officers of the same hospital. The Review Medical Board opted to rely on the report dated 17.10.2024. According to them, said report was supported by audiometric examination. The petitioner, in the writ petition, has also placed another report of another Specialist Medical Officer of said GBP Hospital, who also examined the petitioner on 23.10.2024 in the said hospital and on examination he found the petitioner fit to undergo para-military training with comment that there was no Perforation in his left ear. His report is also supported by audiometric test. All the reports have been issued from a single hospital with contradictory observations. Enclosing the said report dated 23.10.2024, one communication was made by the petitioner on 28.10.2024 to DIG, BSF, Medical (Superintendent), (Annexure 10 to the writ petition) but, according to Mr. Roy Barman, learned senior counsel no response was received in respect of said report.

6. As discussed above, the Review Medical Board itself received 2(two) contradictory reports of 2(two) specialist medical officers of the same hospital just within a gap of one day and report of another specialist medical officer of the said hospital who examined the petitioner on 23.10.2024 also supported the second report issued on 18.10.2024. Therefore, a serious cloud has cast upon the report dated 17.10.2024 which was relied on by the Review Medical Board.

7. Considering all these aspects, and taking note of these contradictory medical reports, the petitioner is directed to submit a representation, along with the said medical report dated 23.10.2024 along with the related audiometric test report to the respondent No.6 within two weeks from today. Thereafter, respondent No.6 will review the matter afresh and come to a reasoned decision in this regard. The respondent No.6 will, however, be at liberty to go for examination of the petitioner by any medical board to be constituted by the Medical Superintendent of GBP Hospital, Agartala in this regard. Final decision should be taken by the respondent No.6 on the representation of the petitioner within two months of receipt of the same.

8. Earlier vide order dated 07.01.2025 the respondents were directed that they shall not fill up one post of Constable (GD) till disposal of this writ petition. Said direction shall remain in force till final decision is taken by the review medical board in pursuance of this order.

With such observations and directions, the writ petition is disposed of.

Pending application(s), if any, shall also stands disposed of.