

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.55 of 2025**

Sri Suman Nandi (27),
Son of Sri Amal Nandi,
Resident of Vill- Uttar Haripur,
P.O.-Matai, P.S.- Belonia,
District-South Tripura,
PIN-799155.

.... Petitioner(s).

Versus

- 1. Union of India,**
Represented by its Secretary,
Having his/her office at Ministry of Home Affairs,
North Block, Central Secretariat,
New Delhi-110001.
- 2. Staff Selection Commission (SSC),**
Represented by his/her Chairman,
Having his office at Staff Selection Commission,
Block No.-12, 4th Floor, CGO Complex,
Lodhi Road, New Delhi-110003.
- 3. Director General of Border Security Force (B.S.F.),**
Having his/her office at, CGO Complex,
Lodhi Road, New Delhi-110003.
- 4. Director General of Central Industrial Security Force (CISF),**
Having his/her office at, Block No.13, CGO Complex,
Lodhi Road, New Delhi-110003.
- 5. Director General of Central Reserve Police Force (CRPF),**
Having his/her office at, Block No.-1, C.G.O. Complex,
Lodhi Road, New Delhi-110003, India.
- 6. Director General of Sashastra Seema Bal (SSB),**
Having his/her office at, East Block-V,
RK Puram, New Delhi, PIN-110066.
- 7. Director General of Indo-Tibetan Border Police (ITBP),**
Having his/her office at, Block 02,
CGO Complex, Lodhi Road, New Delhi-110003.
- 8. Director General of Assam Rifles,**
Having his/her office at, Shillong-793011,
East Khasi Hills, Meghalaya, India.

.....Respondent(s).

For Petitioner(s)	:	Ms. Rumela Guha, Adv. Mr. Mrinmoy Debnath, Adv.
For Respondent(s)	:	Mr. Bidyut Majumder, Dy. S.G.I.
Date of Hearing	:	18.02.2026
Date of delivery of Judgment and Order	:	26.02.2026
Whether fit for Reporting	:	NO

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

The petitioner has filed this writ petition seeking the following relief/reliefs:-

- (i) To admit the instant writ petition;
- (ii) Issue Rule NISI.
- (iii) ISSUE RULE, calling upon the Respondents No.1 to 9 and each one of them to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, directing and/or mandating them to admit the Petitioner as a Constable (GD) in any of the force of Respondents No.3 to 9.
- (iv) ISSUE RULE, calling upon the Respondents No.1 to 9 and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, to set aside and/or quash the "FORM NO.01 FOR DETAILED MEDICAL EXAMINATION OF CT/GD EXAM-2024 MEMORANDUM UNFIT", dated 04.10.2024, (Annexure 6).
- (v) ISSUE RULE, calling upon the Respondents No.1 to 9 and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, to set aside and/or quash the "FORM NO OF CONSTABLE (GD) EXAM-2024 REVIEW MEDICAL EXAMINATION REPORT", conducted on 14.10.2024 (Annexure 7).
- (vi) ISSUE RULE, calling upon the Respondents No.1 to 9 and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, mandating all the Respondents to admit and/or accept medical report of the Petitioner, dated 17.10.2024, issued by AGMC & GBP Hospital (Annexure-9), as the final finding of his Ophthalmological Test.
- (vii) To constitute a medical board under the direction and scrutiny of this Hon'ble Court to verify and/or conduct examination of the medical fitness of the Petitioner for the post of Constable (GD) as advertised in (Annexure-1) by the Respondents no.1 to 9.
- (viii) ISSUE RULE, calling upon the Respondents No.1 to 9 and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, directing them to call for all the relevant records and/or documents in connection to instant matter.
- (ix) Cost of and incidental to this proceeding may be directed to borne by Respondents No.1 to 9.
- (x) Any other Order(s), Direction(s), may be given as the Hon'ble High Court deem fit and proper for the benefit of conscionable justice.

02. Heard Learned Counsel, Ms. Rumela Guha, and Learned Counsel, Mr. Mrinmoy Debnath, appearing on behalf of the petitioner and also heard Learned Dy.S.G.I, Mr. Bidyut Majumder appearing on behalf of the respondents Union of India.

03. At the time of hearing, Learned Counsel, Ms. R. Guha appearing for the petitioner drawn the attention of the Court that the petitioner being an Indian citizen against an advertisement dated 24.11.2023 issued by respondent No.2 applied for the post of Constables (GD) in Central Armed Police Forces (CAPFs), SSF, and Rifleman (GD) in Assam Rifles Examination, 2024 under respondent Nos.3 to 8 [**Annexure-1**].

04. As the petitioner had all the requisite qualification credential and as such he applied for the said post under the respondents and submitted all the relevant documents [**Annexure-2** and **Annexure-3**]. Thereafter, the petitioner appeared in the written examination which was conducted on 21.02.2024 having the Roll No.5601001172. The written examination according to Learned Counsel was conducted through computer in Multiple Choice questions and the same was called as Computer Based Examination (CBE) and in the written examination the petitioner obtained Final Score 81.63.

05. According to Learned Counsel as the petitioner passed his written examination so he was issued admit card for his Physical Standard Test (PST)/Physical Efficiency Test (PET)

and DV/DME which was conducted on 30.09.2024 at AR West Tripura, 18 Assam Rifle, Agartala, West Tripura. The petitioner qualified and passed in his PET & PST examination and after verification of his all the documents the petitioner was forwarded for his Medical Test, wherein the petitioner was diagnosed having eye defect namely 'Squint and not able to open right eye alone'. Thereafter, the petitioner was declared as "unfit" in his first Medical Examination. The result of the first Medical Examination was declared on 04.10.2024. After that on 14.10.2024, a review Medical Examination was conducted upon the petitioner wherein he was again declared as "unfit" and during the Review Medical Examination 'no squint' was found in the eye of the petitioner but he was again declared "unfit" due to "Clinically examined by ophthalmologist and opined that No Squint observed. But candidate is not able to open the right eye. PTOSIS (Rt.) eye present incomplete ptosis & it can cause problem in fire arm handling". According to Learned Counsel, the review medical examination was conducted by Border Security Force Office of The Inspector General Frontier Head Quarter BSF, Salbagan, Agartala, Dist.-West (Tripura), PIN-799012. The petitioner got his consolidated mark details of SSC, which was 81.63 [**Annexure-4**]. The petitioner also relied upon the Admit Card [**Annexure-5**] and the copy of the Medical Examination report dated 04.10.2024 [**Annexure-6**] and the Review Medical Examination report dated 14.10.2024 [**Annexure-7**].

06. It was the further case of the petitioner that he was called for Review Medical Examination which was conducted on 14.10.2024 and during such Review Medical Examination, the petitioner was called upon at 2.30 pm to see a doctor, who checked his eyes and declared him "fit" and therefore underlined the said final opinion listed at clause 6(c) of his Review Medical Examination Report. Thereafter the petitioner was asked to wait for collection of his fitness certificate and at about 7.30 – 8 pm on that day the petitioner was again called upon when he was declared "unfit" which was beyond the knowledge of the petitioner.

07. It was further submitted that the reasons for declaring him as unfit in his Review Medical Examination Report dated 14.10.2024 was contrary to the Rule 6 of the Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, Revised Guidelines as on May, 2015. For the sake of convenience the Grounds for Rejection as mentioned in the aforesaid Rule in enumerated herein below:-

General Grounds For Rejection”:-

- 1. Indication of any chronic disease like tuberculosis, syphilis, or other venereal disease, rheumatoid/any type of arthritis, hypertension etc.**
- 2. Bronchial or laryngeal disease like Asthma, chronic Tonsillitis & Adenoids etc.**
- 3. Indication of Valvular or other disease of heart.**
- 4. Generally impaired constitution, so as to impede efficient discharge of training/duties.**
- 5. Low standard vision.**
- 6. Any degree of squint.**
- 7. Otitis media.**
- 8. Deafness, any degree of impaired hearing**
- 9. Stammering, as specified later**
- 10. Loss off decay of teeth resulting in reduction of dental points below 14.**

11. Wearing of half or complete artificial denture.
12. Contraction or deformity of chest and deformity of joints.
13. Abnormal curvature of spine (exact nature, e.g., kyphosis, scoliosis, lordosis etc. to be specified).
14. Abnormal Gait.
15. Endocrinal disorders.
16. Mental or nervous instability-evidence of nervous instability
17. Defective intelligence
18. Any type of hernia.
19. Chronic skin disease like vitiligo, Leprosy, SLE, Eczema, Chronic extensive Fungal dermatitis.
20. Any congenital abnormality, so as to impede efficient discharge of training/duties.
21. Anal fistula, haemorrhoids and other anorectal diseases as specified later.
22. Deformity of feet like Flat foot, Club foot, Plantar warts etc.
23. Epilepsy (history or evidence; history as per Annexure-II).
24. Nystagmus/Progressive Pterygium.
25. Large hydrocele, even if curable by operation. Small hydrocele (if operated upon & no bad scar is left after operation, may be accepted).
26. Cubitus varus/Valgus.
27. Polydactyl of hands/feet.
28. Undescended testis, atrophic testis, marked varicocele, testicular swellings.
29. Varicose veins. The diagnosis of varicose vein should be made on the basis of dilatation and tortuosity of veins and after confirmation of incompetency of Sapheno-femoral junction/Sapheno-popliteal junction or perforators by relevant clinical tests. Only prominence of veins should not be criteria for rejection. Cases of Varicose veins, even if operated, are not to be accepted because basic defect remains unchanged."

08. Learned Counsel at the time of hearing further submitted that there was no 'special investigation / test / examination' conducted upon the petitioner by any Specialist Doctor during his Review Medical Examination conducted on 14.10.2024. According to Learned Counsel appearing for the petitioner, only a doctor blinked one torch light upon both of his eyes for a moment and declared him fit and thereafter the petitioner was asked to wait outside to obtain his fitness certificate.

9. According to the petitioner, the Review Medical Examination did not comply Rule 7 Note (c) of the Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, Revised Guidelines published on May 2015 issued by the Government of India, Ministry of Home Affairs (Police Division-II). For the sake of convenience the said guideline is also mentioned herein below:-

"Rule 7 Note (c):- In doubtful cases candidates may be referred to a specialist for examination and opinion which may include X-Ray examination or any other special investigation/test/examination."

10. It was further submitted that the guidelines were not followed by the authority and the petitioner was not presented before any board and neither the Review Medical Report shows formation of any board on record. It was also submitted that in [**Annexure-7**] the portion of name and seal of 'Member-II (RME Board)' and name and signature of 'Co-opted Member (RME Board)' was left blank in the Review Medical Examination Report and the Review Medical Examination was conducted by 02 members violating the rules and signed by another additional member whose name or stamp has not been properly indicated. The 4th Member i.e. co-opted member (RME Board) did not sign the Review Medical Examination Report and his column was left out.

11. It was further submitted by Learned Counsel for the petitioner that before the first Medical Examination of CT/GD Examination conducted on 04.10.2024, the petitioner visited the Belonia Sub-Divisional Hospital Road 1 nos Tilla Belonia for

his eye checkup on 19.09.2024 and during his eye checkup on 19.09.2024, Dr. Amit Sen, MS Eye, declared that the petitioner is having "color vision normal" after examining eyes of the petitioner. Thereafter, on 04.10.2024, his Medical Examination by the SSC was conducted wherein he was declared "unfit" and thereafter again on 14.10.2024, a Review Medical Examination was conducted upon the petitioner wherein he was again declared "unfit" illegally. After that on 17.10.2024, the petitioner went for his eye checkup to the Agartala Government Medical College & GBP Hospital, Government of Tripura, wherein it was opined by the Medical Officer, Department of Ophthalmology as well as Dr. Deepak Debbarma, Asstt. Professor, Department of Ophthalmology that the petitioner had "No Squint" "No Ptosis" and "PE is Medically Fit Regarding His eyes" and relied upon the Medical Report dated 19.09.2024 issued by Belonia Sub-Divisional Hospital Road 1 nos Tilla Belonia [**Annexure-8**] and the report of AGMC & GBP Hospital, Agartala dated 17.10.2024 [**Annexure-9**]. Thereafter, he submitted the said report to the authority of the BSF but no response was given.

12. It was further submitted by Learned Counsel appearing for the petitioner that the petitioner was all along medically fit but due to some unknown reasons he has been declared "unfit" by the respondent-authority for which he has been deprived of his legitimate right and finally under compelling circumstances filed this writ petition before this

Court. The respondent-authority on receipt of notice have appeared through Learned Dy.SGI and filed counter-affidavit denying the allegation of the petitioner in his writ petition but admitted that the petitioner appeared in the exam but submitted that as the petitioner could not qualify the Medical/Review Medical Test so he was rightly disqualified by the Review Medical Board and as such he is not entitled to employment in absence of medical report as "fit". The respondents also relied upon some documents in support of their contention and submitted the same along with their counter-affidavit before the Court and submitted the Review Medical Examination report [**Annexure-R/6**] and finally Learned Dy.SGI submitted that the petitioner is not entitled to get any relief in this case.

13. However, at the time of hearing, Learned Counsel for the petitioner relied upon one citation of the Hon'ble Supreme Court of India in ***His Holiness Kesavananda Bharati Sripadagalvaru Vs. State of Kerala and Another*** reported in **(1973) 4 SCC 225** wherein in Para No.897, Hon'ble the Apex Court observed as under:-

"897. The contention that essential features are not amendable under Article 368 as it stood before the Constitution 24th Amendment Act is not only reading negative restrictions on the express power of amendment but is also putting the clock back. One of the salutary principles of construction of a statute is to be found in R. v. Burah. : 3 AC 889. It was a case to determine whether the prescribed limitations of a colonial legislature had been exceeded. The Judicial Committee said that a duty must be performed by looking to the terms of the instrument by which affirmatively legislative powers are created, and by which, negatively, they

are restricted. "If what has been done is legislation within the general scope of the affirmative words which give power, and if it violates no express condition or restriction by which that power is limited, it is not for any court of justice to enquire further or to enlarge constructively those conditions and restrictions". The maxim *Expressum facit cessare tacitum* was similarly applied in *Webb v. Outrim*: 1907 AC 89. The theory of implied and inherent limitations can be best described as a subtle attempt to annihilate the affirmative power of amendment. Lord Halsbury in *Fielding v. Thoms* : 1896 AC 600, said that if the legislature had full power to make laws it was difficult to see how the power was taken away. The power is always sufficient for the purpose. Lord Dunedin in *Whiteman v. Sadler* : 1910 AC 514, said "express enactment shuts at shuts the door to further implication".

Reliance was further placed upon another citation of the Hon'ble Supreme Court in ***Competition Commission of India Vs. Steel Authority of India Limited*** reported in **(2010) 10 SCC 744** wherein in Para No.60, the Hon'ble Apex Court observed as under:-

"60. *Expressum facit cessare tacitum* - express mention of one thing implies the exclusion of other. (Expression precludes implication). This doctrine has been applied by this Court in various cases to enunciate the principle that expression precludes implication. (*Union of India v. Tulsiram Patel*:(1985) 3 SCC 398.) It is always safer to apply plain and primary rule of construction. The first and primary rule of construction is that intention of the legislature is to be found in the words used by the legislature itself. The true or legal meaning of an enactment is derived by construing the meaning of the word in the light of the discernible purpose or object which comprehends the mischief and its remedy to which an enactment is directed. (*State of H.P. v. Kailash Chand Mahajan* :1992 Supp (2) SCC 351 and *Padma Sundara Rao v. State of T.N.*:(2002) 3 SCC 533)."

Again reliance was placed upon another citation of the Hon'ble Supreme Court in ***Satyavir Singh and Others Vs. Union of India and Others*** reported in **(1985) 4 SCC 252**

wherein in Para No.22, the Hon'ble Apex Court observed as Under:-

"(22) The governing words of the second proviso to clause (2) of Article 311, namely, "this clause shall not apply", are mandatory and not directory and are in the nature of a constitutional prohibitory injunction restraining the disciplinary authority from holding an inquiry under Article 311(2) or from giving any kind of opportunity to the concerned civil servant in a case where one of the three clauses of the second proviso becomes applicable. There is thus no scope for introducing into the second proviso some kind of inquiry or opportunity to show cause by a process of inference or implication. The maxim *expressum facit cessare tacitum* ("when there is express mention of certain things, then anything not mentioned is excluded") applies to the case. This well-known maxim is a principle of logic and common sense and not merely a technical rule of construction as pointed out in *B. Shankara Rao Badami v. State of Mysore: (1969) 3 SCR 1.*"

Referring the aforesaid citations, Learned Counsel for the petitioner submitted that the maxim *expressum facit cessare tacitum* that is when there is express mention of certain things then anything not mentioned is excluded.

Meaning thereby since there was no specific guidelines for the respondent-authority to exclude the candidature of the petitioner on the grounds stated in the report and as such in view of the observation of the Review Medical Board which is explicitly excluded from the rules there was no scope to disqualify the petitioner by the respondent-authority for the post he applied for which he was already been qualified and furthermore the report of Medical Officer, Belonia Sub-Divisional Hospital [**Annexure-8**] and the report of the AGMC & GBP Hospital, Agartala [**Annexure-9**] are totally contrary to the report of Review Medical Board and as such

there was no scope/reason to disqualify the petitioner from the post which he applied for and urged for allowing the writ petition.

The petitioner also further relied upon another citation of the Hon'ble High Court of Judicature for Rajasthan Bench at Jaipur in **Ramkala Varma Vs. Union of India and Others** numbered as Civil Writ Petition No.17749/2024 wherein in Para Nos.18 and 19, Hon'ble the Rajasthan High Court observed as under:-

"18. Ergo, in précis it can be noted that the petitioner's case appears to be resilient; that the medical rejection and rejection by the respondents is based on speculative presumptions and does not meet the threshold of legal justification; that the independent medical opinion, which supports the petitioner's medical fitness, is not rebutted, and the prior declaration of medical fitness in an earlier BSF recruitment process further reinforces the petitioner's entitlement to consideration; that the petitioner has also demonstrated that she is not disqualified by the relevant medical guidelines or by any other factor that would preclude her from being considered for this post, especially given her current noncombat role in the CAPFs.

19. In light of the above considerations and upon a careful review of the facts, legal principles, and judicial precedents, it is hereby directed that the petitioner is entitled to be considered for the post of Constable (GD) in the Central Armed Police Forces (CAPFs) under the recruitment process initiated in the year 2024. The petitioner's medical disqualification, based on an unfounded assumption regarding her birthmark, is found to be arbitrary, lacking in sufficient medical or logical reasoning."

Referring the same, Learned Counsel submitted that the case of the present petitioner squarely covers by the said judgment.

14. I have heard both the sides at length and perused the writ petition along with the documents submitted by the

respondent-authority. However, at the time of hearing and also on perusal of the documents relied upon by the parties specifically the medical examination report of the Review Medical Board [**Annexure-7**] as relied upon by the petitioner and also the report submitted by the respondent-authority of the same petitioner by the Review Medical Board [**Annexure-R/6**] appears to be does not match with each other.

15. Learned Counsel for the petitioner relying upon **Annexure-7** submitted that this report was furnished to the petitioner by the authority on the same day i.e. on 14.10.2024 wherein it appears only 03 Medical Officers have given their signatures but on perusal of **Annexure-R/6** submitted by the respondent-authority it appears that, that was signed by 04 Medical Officers thus there is a clear discrepancy apparent on the face of those documents and also on bare perusal of the said documents it was also not clear to the Court whether the Medical Officers who have given their signatures on the body of the said documents are any Medical Specialists or not. Learned Dy.SGI in this regard also failed to satisfy the Court by showing any convincing reply in regard to discrepancies. Further, at the time of hearing, Learned Counsel for the petitioner submitted that since on 17.10.2024, the petitioner consulted the Specialist Doctor at AGMC & GBP Hospital, Agartala so it would be better if the matter is referred to the Standing Medical Board of Tripura for Medical Examination of

eyes of the petitioner by Specialist Doctors of Eye Department so as to address the grievance of the petitioner.

16. To that Learned Dy.SGI fairly submitted that he shall have no objection if the matter is referred to Standing Medical Board of AGMC & GBP Hospital, Agartala for opinion and it was further submitted by Learned Dy.S.G.I. that if the Standing Medical Board of AGMC & GBP Hospital, Agartala opines that the petitioner is "fit" to discharge the duties for the post for which he has applied for in that case the respondent - authority shall have no objection to abide by the said report of the Standing Medical Board of AGMC & GBP Hospital, Agartala.

17. In view of the above, this present writ petition is disposed of interfering with the report of Review Medical Board (**Annexure-7** and **Annexure-R/6**) with a direction to the Medical Superintendent, AGMC & GBP Hospital, Agartala to constitute a Medical Board for examination of eyes of the petitioner of this writ petition by a group of 04 Doctors out of which 03 Doctors should be Eye Specialists of the respective Eye Department of the said Medical College and thereafter on examination shall furnish the copy of the report to the authority-representative of the respondent-Union of India and also to the petitioner with a further copy to the Registrar (Judicial), High Court of Tripura for keeping the same with the record.

It is further made clear that at the time of Medical Examination, the representative of the Union of India and the

petitioner himself shall remain present before the Standing Medical Board and also shall produce the relevant documents i.e. the relevant medical reports relied upon by both the parties. If the Standing Medical Board opines that, the petitioner is physically "fit" of his eyes to discharge his duties for the post he has applied for then in that case, the respondent-authority thereafter, after receipt of the report shall issue offer of appointment within a period of next 02(two) months in favour of the petitioner provided the petitioner fulfills the other criterias.

In case of disobedience liberty is given to the petitioner to approach to the Court in due course of time.

The Medical Superintendent, AGMC & GBP Hospital, Agartala shall complete the process within a period of 15 (fifteen) days from the date of receipt of the copy of this order from the Registry of the High Court of Tripura and on completion of the process shall supply the reports as indicated above to the parties.

Registry be asked to forward a copy of this order to the Medical Superintendent, AGMC & GBP Hospital, Agartala for information and compliance.

Supply a copy of this order to Learned Counsel for the petitioner for information and compliance. Also supply a copy of this order to Learned Dy.SGI, Mr. B. Majumder for information and compliance.

Both the parties shall accordingly approach to the Medical Superintendent, AGMC & GBP Hospital, Agartala for further proceeding.

With these observations, this writ petition is disposed of.

Pending application/s, if any, also stands disposed of.

JUDGE



Amrita

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