

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8623 of 2012

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Chunnu Baitha Son of Baldeo Rajak, resident of village-Khopi, P.O.-Khopi, in the district of Vaishali, Bihar.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home, New Delhi
2. The Director General, Assam Rifles, Happy Valley, Shilong, Assam, 793011
3. The Additional Director General, Assam Rifles Shillong, 793011
4. The Brigadier (Personnel) Director General, Assam Rifles, Shilong, 793011
5. The Colonel (Records) For Additional Director General, Assam Rifles Shillong, 793011
6. Presiding Officer, Recruitment Selection Board, Danapur, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nitiya Nand, Adv.

For the Union of India : Mr. Ram Anurag Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 20-01-2015

Heard learned counsel for the petitioner and learned counsel for the Union of India.

In this case, the petitioner had applied for recruitment in Assam Rifles, accordingly, on receipt of letter dated 31st December 2009 he participated in the Recruitment Rally which was conducted from 23rd April 2010 to 28th April 2010 where he was allotted Chest No. 0267 and was also given Enrollment I.D. Vaishali/Bihar/0267. The petitioner qualified in physical test and was placed at serial No. 54. He was put to medical test where he was declared medically unfit



temporarily due to some defect in the Ear and was advised to review/undergo treatment of the above ailment by recognised specialist in the Government Hospital. Though the petitioner was provisionally selected and called for final confirmatory medical fitness test at ARTC 8S Dimapur (Nagaland) on 12th July 2010. After getting the treatment as per the guidelines issued again the petitioner appeared before the Medical Board and was declared permanently unfit due to “B/L Middle Ear Effusion Testicular Mass (RT)” vide Report dated 23rd July 2010. The petitioner got himself examined on 7th July 2010 by one Dr. Nagendra Kumar Singh, P.M.C.H., Patna who did not find any error in his Ear. Again the petitioner was examined and treated at N.M.C.H., Patna, there also he was found perfectly fit having no defect in the Ear. Again the petitioner was examined by ENT Specialist at North Eastern Indira Gandhi Regional Institute of Health and Medical Science, Shilong on 2nd November 2011 there also did not find defect in his ear, nose and throat.

The petitioner, on the strength of the aforesaid medical certificates, filed an appeal and requested for re-medical examination there he was again directed to report to Assam Rifles Hospital, Happy Vally, Shillong on 30th December 2010 where he was directed to report at C.R.P.F., Hospital Gauhati where the petitioner was re-examined and found fit.

On the statement aforesaid, the petitioner has claimed his appointment in the GR Constable Assam Rifles.

In the counter affidavit it has been stated that the petitioner on appeal was placed to Medical Appellate Board where he was examined on 4th February 2011 at Assam Rifles Construction & Maintenance Company, Laitkor, Shillong where he was found unfit due to “B/L” Middle Ear Effusion and declared permanently unfit for his recruitment to the post of GD Constable Assam Rifles.

The counsel for the petitioner submits that in fact, the petitioner was not examined on 4th February 2011 at Laitkor rather was examined on 1st February 2011 at Laitkor, Shillong.

This Court, vide order dated 17th December 2014, directed the counsel for the Union of India to produce the original medical record with respect to the decision of the Medical Board whereupon the counsel for the Union of India has produced the original record and from where it appears that the petitioner was examined by Medical Board and the medical report dated 4th February 2011 shows that the petitioner was examined at Laitkor Shillong and was found medically unfit permanently due to defect in his Ear as stated above and that report has been signed by Colonel R.K. Jaiswal, SM, Major Rajni Nayal and Assistant Commandant Ngukato Kiho.

In view of the production of the aforesaid record, this

Court cannot disbelieve that the record produced by the Union of India and statement made in the counter affidavit is untrue. If the petitioner has been found medically unfit, he cannot be accommodated in Assam Rifles, as the tasks in the Armed Force are very arduous in nature there he/she requires higher standard of medical fitness. This Court cannot act as appellate authority over the decision of the Appellate Medical Board.

In this view of the matter, this Court does not find any merit in the present case and the same is accordingly dismissed.

(Shivaji Pandey, J)

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