

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.849 of 2015

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Anupam Shyam son of Shyam Sundar Raut, Resident at Jurabganj (Masan Sthan),
P.O. and P.S. Korha, Distruct- Katihar.

.... Petitioner/s

Versus

1. The Union of India.
2. The Secretary, Department of Home, Govt. of India, North Block, New Delhi.
3. The Director General, Central Industrial Security Force, Govt. of India, New Delhi.
4. The Inspector General, CISF, Eastern Sector, Head Quarter, New Patliputra Colony, Boring Road, Patna.
5. The D.I.G., C.I.S.F. (East Zone), Patliputra near Raj Chikitsa, Boring Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan

For the Respondent/s : Mr. S.D. Sanjay, Add. S.G.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 24-04-2015

Heard learned counsel for the parties as with regard to the
following relief prayed in this writ application:-

"----- to quash the decision of review medical examination, whereby the petitioner was declared medically unfit for appointment to the post of Head Constable (Ministerial) in CISF by the review medical board on the ground that he was suffering from left elbow varus deformity which decision of the respondent is arbitrary and illegal as the ministerial staff i.e clerical job does not require same level of fitness as regular Head Constable and the advertisement and rules did not require passing of medical examination as pre pre-requisite for appointment.

That the petitioner further prays for a writ of mandamus directing the respondent to appoint the petitioner

on the post of Head Constable (ministerial) as the petitioner was found to be fit to perform all normal duties and work."

Mr. Sanjeev Ranjan, learned counsel for the petitioner, in support of the aforesaid prayer, has tried to establish by referring to various documents that the disqualification of the petitioner on the medical ground for his appointment on the post of Head Constable (Ministerial) in Central Industrial Security Force (CISF) is wholly arbitrary, illegal as also illogical, inasmuch as, the Medical Board had only found the left elbow vires which in no way could interfere in the efficient performance of the duty of the post of Head Constable (Ministerial).

On the other hand, learned counsel for the respondents, having filed counter affidavit and also placing reliance on the letter of the Ministry of Home Affairs dated 30th June, 2003 and another letter of the CISF dated 25.11.2005, have laid stress that even a Head Constable (Ministerial) has to once in a year participate in the active service by way of taking part in the practice of ammunition where he has to participate in 12 rounds of firing by rifle and 12 rounds of fire by pistol.

Let it be keep in mind that the power of judicial review in such matter either with respect of laying down of qualification in the matter of recruitment or medical standard will be very very limited. In the present case, the medical standards were laid down in the

advertisement itself and the clause of disqualification was also clearly mentioned. An aspect on which the whole of the issue will turn in this case is the following provision:-

"Candidates must not have Knock knee, Flat Foot, Squint in eyes or Varicose vein and they should possess high colour vision. They must be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties."

Thus, the issue as to whether the medical defect of left elbow vires would interfere in the efficient performance of the duty of the post of Head Constable (Ministerial) has to be firstly decided by the competent authority of the CISF in the light of the rules, regulations or the guidelines of the government/CISF.

This Court, therefore, would remit the matter back to the Director General of CISF, New Delhi (respondent no.3) to consider all these aspects and pass a reasoned order on the representation filed by the petitioner enclosing all the documents/evidence that he would like to rely in his favour for establishing that the medical defect of left elbow vires is not likely to interfere in the efficient performance of the duty of the post of Head Constable (Ministerial).

In the event such a representation is filed by the petitioner before the Director General of CISF, he would pass his order within a period of three months from the date of filing of the representation along with a copy of this order and will also communicate the same to

the petitioner.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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