

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22026 of 2014

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Amit Kumar Manjhi @ Amit Kumar son of late Hari Kishore Manjhi, resident of village- Hahawan, P.O.- Hahawan, Police Station- Maharajganj, District- Siwan (Bihar)

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home, Govt. of India, North Block, New Delhi
2. The Director General of Police, Central Reserve Police Force, C.G.O. Complex, Lodhi Road, New Delhi
3. The Inspector General of Police, Central Reserve Police Force, West Bengal Sector, Saltlake, Kolkata
4. The Deputy Inspector General of Police (Recruitment), Directorate, Central Reserve Police Force, Lodhi Road, New Delhi
5. The Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Siliguri (West Bengal)
6. The Commandant- 156 Batalion, Central Reserve Police Force, null Dhaligaon, District- Chirang (Assam)
7. The Chief Medical Officer (SG), Composite Hospital, Border Security Force, Kadamtala
8. The Regional Medical Officer, Department of Surgery, North Bengal Medical College and Hospital, Sushrutanagar, District- Darjeeling (West Bengal)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Adv.

For the Respondent/s : Mr. Sanjay Kumar(ASG)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 06-04-2015

Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ application reads

as follows:-

"1(i) *For issuance of an appropriate writ in the nature of certiorari for quashing the letter dated 18.9.2014 issued under the signature of the Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Silliguri by which he has rejected the*



claim of the petitioner for his appointment on compassionate ground and also for quashing the letter dated 13.9.2014 issued under the signature of the Commandant-156 Battalion, Central Reserve Police Force, Dhaligaon, District Chirang (Assam), by which he has closed the recruitment of the petitioner on compassionate ground.

- (ii) For issuance of an appropriate writ in the nature of certiorari for quashing the report of the medical Board dated 21.7.2014 of Composite Hospital, Border Security Force, Kadamtala, by which the petitioner has been declared unfit due to right side hydrocele more bigger than left hydrocele.*
- (iii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to appoint the petitioner on compassionate ground on the post of constable/G.D. in Central Reserve Police Force as the petitioner was declared fit on 19.7.2014 and 31.5.2014 by the Medical Board, North Bengal Medical College and Hospital, Sushrutanagar, District Darjeeling.*
- (iv) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to consider the case of the petitioner for his compassionate appointment on the post of constable/G.D. in Central Reserve Police Force as the petitioner was found eligible for his appointment and in this regard, the appointment letter dated 12.3.2014 was issued by the Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Siliguri, by which the petitioner was directed to join till 11.4.2014 at the time of joining he was declared unfit.*

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- (v) *For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to reconsider the case of the petitioner for his compassionate appointment on the post of constable/G.D. as after operation of right side hydrocele he was declared fit by the Medical Board of North Bengal Medical College and Hospital, Sushrutanagar, District Darjeeling, but even after that the petitioner has not been appointed on compassionate ground in very mechanical manner.*
- (vi) *For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to appoint the petitioner on compassionate ground as constable/G.D. for which he is entitled after sudden death of his father in harness."*

3. In the peculiar facts and circumstances of this case this Court having found that the petitioner was already selected for appointment on compassionate ground after the death of his father and in fact was also offered an appointment subject to his being declared medically fit would find the necessity of reconsideration of his case once again by the Review Medical Board inasmuch as in the earlier medical test, there was a defect found by the first medical board which had declared the petitioner unfit on account of he having a problem of hydrocele. As a matter of fact the petitioner had also undergone surgery and on the basis of the certificate issued by the doctor operating him, he had appeared before the review medical

board which however had again declared him unfit on the same ground of problem of hydrocele.

4. Learned counsel for the petitioner has submitted that first of all the review medical board, consisting of two lady doctors, had not properly examined the petitioner and, to top it all, it will be a question of varying opinion, inasmuch as, the doctor, who had performed surgery, had already declared the petitioner free from the hydrocele problem.

5. When this case was heard earlier, this Court had directed learned ASG to take instruction and also produce the specified standard to show that even a person suffering from hydrocele can be disqualified for being appointed in service of Central Reserve Police Force.

6. Mr. Sanjay Kumar learned Assistant Solicitor General appearing for the Respondents has today produced the relevant extract of the booklet prescribing medical standard wherein out of 26 medical grounds of rejection "any type of Hernia or hydrocele" has also been included therein. In view of this fact, this Court will have no difficulty in holding that if the petitioner is still suffering from the problem of hydrocele, he will not be entitled for appointment in C.R.P.F.

7. The big question however, would still be as to whether the petitioner is still suffering from the defect of hydrocele.. It appears



that in his over anxiety the petitioner had acted in a haste when he was asked to report by the first medical board only after three months of the surgery undergone by him before the Review Medical Board after overcoming in the problem of hydrocele. The petitioner probably on account of pressing need for an immediate job for supporting himself and his dependent family members had chosen to appear before the Review Medical Board only after two months of his surgical operation thinking that his wound had already healed and he was fit to join the duty pursuant to the existing offer of his appointment on compassionate ground. That may be the only reason for the petitioner to have appeared even before the expiry of prescribed period of three months after which he was actually supposed to appear for his medical examination before the Review Medical Board..

8. Today, learned counsel for the petitioner has again reiterated the stand of the petitioner that he is now fully medically fit and in fact is also prepared to produce medical fitness certificate from the operating doctor that his wound has also now fully healed and he does no longer suffer from the problem of hydrocele. .

9. In that view of the matter, this Court, taking into consideration the peculiar facts and circumstances of this case, would direct the petitioner to appear once again before the Review Medical Board after obtaining a fresh certificate from the doctor, who had



conducted the surgery, that the petitioner has now become fully fit in all respect for being appointed in CRPF and that he has also overcome the problem of hydrocele. The doctor, while giving such certificate, will be provided with a copy of this order and he would then give such fitness certificate after being personally satisfied of the medical condition of the petitioner.

10. If such a certificate is produced by the petitioner within a period of one month from today, the competent authority of the C.R.P.F. shall order for examination of the petitioner by a review medical board of three doctors preferably all male doctors in view of the petitioner allegedly suffering from the defect of hydrocele.

11. Let it be made clear that only if the review medical board holds the petitioner fit in all respect, then and then alone the appointment of the petitioner on compassionate ground shall be made. This exercise however also should be done expeditiously and if the petitioner is declared successful in the medical test by the review medical board, the appointment also must be made within a period of one month from the date of such report of the review medical board.

12. Before parting with, this Court however must make it clear that even in the matter of compassionate appointment in any disciplined armed force including C.R.P.F., the requirement of being fully medically fit cannot be compromised and therefore this order

should also not be treated to be a precedent for any other case for appointment in C.R.P.F. in future.

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

(Mihir Kumar Jha, J)

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