

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11063 of 2015

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1. Gautam Kumar, Son of Dudhnath Thakur, resident of Village and P.O.- Sakari,
P.S.- Arwal, District- Arwal.

.... Petitioner/s

Versus

1. The Union of India through Director General of Boarder Security Force, B.S.F.
Head Quarter, New Delhi.
2. The Director General of Boarder Security Force, B.S.F. Head Quarter, New
Delhi.
3. The Inspector General of Boarder Security Force, Ftr. Head Quarter B.S.F.,
North Bengal, Darjeeling.
4. The Commandant, 139 BN Boarder Security Force, Kisanganj.
5. The Recruiting Officer, Boarder Security Force, Kisanganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Harendra Kumar Singh
For the Respondent/s : Mr. S. D. Sanjay (Addl. Soc. Gen.)
Mr. Rajesh Kumar Verma (CGC)

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 24-11-2015

24.11.2015

Heard learned counsel for the parties.

Petitioner applied for the post of a Constable under Border Security Force. It is his case that he fulfilled all the requirements and was subjected to medical fitness test. The Board rejected him on two grounds. One related to his height and the other related to his teeth (less in dental point)

One objection with regard to the teeth was overruled, but the height remained an issue.

There was variation in the measurement, therefore, as an exceptional circumstance, petitioner

was re-measured by a medical board, consisting of five senior officers. This Board, in fact, considered candidature of five different candidates. This Board found three of the candidates to be fit, but the two rejected, included the present petitioner on the ground of being less in height by .5 c.m.

Counsel for the petitioner submits that different heights, which were shown up in different measurements itself cast a doubt on the correctness of the exercise so done by the respondents. Even earlier, in 2011 recruitment process, his height was measured and nothing was found amiss.

The Union of India has filed a detailed counter affidavit. They take a plea that the petitioner, as a special case along with four other candidates, was subjected to a review measurement by a third Board. The opinion of the Board is Annexure-R/1. Here also, it is evident that the petitioner is short by .5 c.m. in height and the petitioner was communicated the decision in terms of Annexure-R/2.

The physical yardstick required for such requirement has to be met. If the petitioner had not been produced before the special Board, consisting of senior officers, having five in number, who had carried out the



measurement of the petitioner, may be yet another opinion could have been taken. But that stage is over. The Court will have to go by the outcome of the third measurement, which has been held by a Review Board, consisting of five officers.

Since petitioner is short in height of the minimum requirement of 167.5 c.m., therefore, there cannot be any occasion for a direction for his appointment. Further, since the petitioner has been measured by a specially constituted Board, a third time, the exercise of measurement and re-measurement cannot go on indefinitely.

The Court deliberately does not go into the controversy raised by the Union of India with regard to the authenticity of Annexure-8 taking into consideration the order, which has been passed.

Writ application has no merit, it is dismissed.

(Ajay Kumar Tripathi, J.)

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