

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6648 of 2014

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Munna Singh Son Of Ram Deo Singh Resident Of Village- Nagargama,
P.S.- Baliya, District- Begusarai

.... Petitioner

Versus

1. The Union Of India Through The Ministry Of Home Affairs, New Delhi
2. The D.G. Of Police C.R.P.F., New Delhi
3. The I.G. Of Police C.R.P.F. Bihar Sector Patna
4. The D.I.G. Of Police, C.R.P.F. Group Centre C.R.P.F., Muzaffarpur
5. The Deputy Commandant C.R.P.F. Group Centre, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vinod Gautam, Adv.

For the Respondent/s : Mr. Anshuman Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 05-02-2015

Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads as follows:

“That this is an application for issuance of an appropriate writ order or direction for quashing letter no. CR2/2010-11, Est-6, dt. 17.8.2011 of the D.I.C., C.R.P.F. Group Centre C.R.P.F. Muzaffarpur i.e. Annexure 6 series whereby the appeal representation of the petitioner has been rejected on the ground that to petitioner found unfit by the Medical Board and for a further direction to the respondents to accept his appeal representation and to get the petitioner medically re-examined by another Medical, since Member of the Board acted with malice on refused by petitioner to oblige them. Board and then to appoint him on the post of constable/ GD or for any other order or orders which this Hon’ble Court may deem fit and proper

under the circumstances of the case.”

Learned counsel for the petitioner while assailing the impugned order dated 17.8.2011 has straightway proceeded to make a submission that even though the review made by the Medical Board has been rejected but then such rejection was actuated by malice or malafide, because there was a demand of illegal gratification from the petitioner.

This Court would find it very difficult to accept such submission much less act upon it for issuing any direction after quashing the impugned order dated 17.8.2011 which has been assailed after a period of 2½ years on frivolous ground.

Let it be noted that the petitioner was given an additional opportunity under the order of this Court dated 5.5.2011 in C.W.J.C.No. 7939/2011, wherein the following direction was given:

“ Heard learned counsel for the petitioner and the learned Assistant Solicitor General for the respondents.

The petitioner upon his selection as Constable (G.D.) in the C.R.P.F. was sent before the Medical Officer of the Recruitment Board, who found him unfit, which was communicated to the petitioner on the same day by letter dated 11.1.2011 stating that the petitioner may within fifteen days file an appeal after complying with the necessary conditions mentioned therein. The petitioner preferred an appeal for his case to be considered by the



Review Medical Board sending the same by registered post on 18.1.2011 with respect to which photo copies of the postal receipts have been annexed. However, by letter dated 15.3.2011, he was informed that his appeal was received in the office of the C.R.P.F. on 1.2.2011, i.e. after 21 days of the prescribed time for the said purpose.

This Court does not find the said stand of the respondent authorities as acceptable. The petitioner was quite vigilant in the matter and sent his appeal through registered post within a week on 18.1.2011 after rejection of his case by the medical officer. If the postal authorities took two weeks' time for delivering the same to the respondents the same cannot be held against the petitioner. The petitioner is definitely entitled to have his case considered by the Review Medical Board. The letter dated 15.3.2011 of respondent no.4 is, accordingly, quashed.

The writ application is, thus, allowed and it is directed that the respondent no.4, D.I.G. of Police, C.R.P.F., Goup Centre, C.R.P.F., Muzaffarpur shall send the petitioner before the Review Medical Board within three weeks from the date of receipt/ production of a copy of this order and the case of the petitioner shall abide by the recommendation of the Review Medical Board.”

Pursuant to the aforementioned direction the Review Medical Board was constituted and the petitioner was allowed to appear before the Board and the petitioner in fact also appeared before the Board. That Board has again found the petitioner unfit. This order declaring the petitioner unfit was passed on 17.8.2011

but this writ application has been filed on 3.4.2014 alleging that the said report is bad only because the authorities were asking money from him.

Mr. Anshuman Singh, learned counsel for the respondents, at this stage submits that as a matter of fact the petitioner has not even dared to make such allegation on affidavit and it is only oral submission of the learned counsel for the petitioner which has been sought to be projected of illegal gratification for the purposes of assailing the impugned order.

It is really unfortunate for this Court to note that the submissions have been made in this case beyond the pleadings whereas the materials on record would go to show that there was a proper consideration by the Review Medical Board and its opinion declaring the petitioner unfit cannot be interfered by this Court as if sitting as further appellate authority. In fact learned counsel for the petitioner has also failed to point out any infirmity in such Medical report and therefore, this writ application must fail.

It is, accordingly, dismissed.

(Mihir Kumar Jha, J)

surendra/-

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