

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19656 of 2014

=====

Md. Kamal Son of Late Md.Hussain Resident of East Noon Gola,P.S-
Hajipur,District-Vashali.

.... Petitioner/s

Versus

1. The Union of India through the Secretary Ministry of Home Affairs,
Govt.o f India, New Delhi.
2. The Director General of Police,BSF,New Delhi
3. The Inspector General of Police, BSF,Bihar Sector,New Delhi
4. The Deputy Inspector General of Police, BSF,Group Centre,Muzaffarpur
5. The Assitant Commadant,BSF,Uttar Bengal Darjeeling null null

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Adv

For the Respondent/s : Mr. Rakesh Kr. Sinha, C.G.C.

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

2 10-02-2015 Heard learned counsel for the parties as with

regard to the following relief prayed in this writ

application:-

"(i) For issuance of writ in the nature of
mandamus commanding and directing the
Respondents-Authority to entertain the appeal of
the petitioner for re-medical condoning the delay
as the appeal was received in the office of the
Respondents-Authority two days delayed.

(ii) For further quashing of the Letter
dated 12.3.2014 issued under the signature of the
Assistant Commandant, BSF, Uttar Bengal
Darjeeling and for further direction to the

Respondents-Authority to re-consider the case of the petitioner for re-medical for appointment to the post of Constable, BSF and accordingly take decision for appointment."

2. Having regard to the fact that the petitioner only wants one more opportunity to prove his medical fitness before the Review Medical Board for the post of Constable as per the norms laid down for the constable examination conducted by the respondent authorities of Border Security Force (B.S.F.), this Court taking into consideration that the petitioner was examined declared unfit by the Medical Board on 28th of June, 2014 and had been given an opportunity to appear before Review Medical Board by directing him to produce the prescribed necessary medical certificate from a medical practitioner within a period of fifteen days and that the petitioner having obtained such medical certificate from his treating Doctor at Hazipur on 03.02.2014, had also sent the same with application for appearing before Review Medical Board on 05.02.2014 at Kishanganj by





registered post, he could not have been denied the opportunity of being examined by the Review Medical Board specially when it is admitted that the petitioner's such communication dated 5.2.2014 was received at Kishanganj on 14.2.2014.

3. Thus this Court on being informed by learned counsel for the petitioner that the process of appointment on the post of constable for which the petitioner also was an applicant has not been completed as yet, it would direct, the concerned authority of B.S.F at Kishanganj to allow the petitioner to appear before the Review Medical Board and if the petitioner is found medically fit, his case for appointment on the post constable for which he was an applicant should be considered ofcourse strictly in accordance with law.

4. It is, however once again made clear that if appointments on the posts of Constables in question have already been made and that process of appointment has already been completed nothing said in

this order as with regard to allowing the petitioner to appear before this order of examination of the Review Medical Board will ennure to his benefit in relation to his appointment on the post of Constable even if he is declared medically fit by Review Medical Board because he himself had moved this Court belatedly after a period of more than eight months by filing this writ application on 18.11.2014 assailing the impugned order dated 12.03.2014.

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

(Mihir Kumar Jha, J)

Ranjan/-
U

--	--	--