

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20580 of 2010

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Balmukund Sharma, S/O Sri Nageshwar Sharma, R/O Vill. Supta,
P.S.Tekari, Distt. Gaya.

.... Petitioner

Versus

1. The Union of India through the Secretary, Defence New Delhi.
2. The Chief of Naval Dockyard Shahid Bhagat Singh Road, Mumbai-400023.
3. The Chief Commissioner for Persons Disability Sarojani House-6, Bhagwan Das Road, New Delhi-110001.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rohit Mishra, Advocate

For the Respondent/s : Mr. Anjani Kumar Sharan, CGC

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

12 02-09-2015 Heard learned counsel for the petitioner and learned
Central Government Counsel.

The petitioner seeks direction on the respondents to consider the application of the petitioner for appointment on the post of Laskar O.D. Group D. The petitioner applied against an advertisement dated 28.2.2008 of the Central Government. The petitioner in his application had enclosed a disability certificate dated 30.6.1993 issued by the Board headed by the Civil Surgeon-cum-Chief Medical Officer, Gaya showing that the right eye of the petitioner as NAD, i.e., perfectly normal but held that his disability was about 40%. The appointment of the petitioner was rejected stating that the same was against general quota and not



reserved quota, by letter dated 14.11.2008 as having been found without merit. The petitioner thereafter moved before the Chief Commissioner for Persons with disability, who issued a notice to respondent No.2 for personal hearing of the petitioner and ultimately after hearing the parties the respondent No.3, Chief Commissioner held that the petitioner was one eyed man having normal vision and the disability certificate issued to him by the office of Civil Surgeon-cum-Chief Medical Officer, Gaya in the year 1993 also showed normal vision in his right eye, hence his disability was 30% and not 40% as shown in his disability certificate dated 30.6.1993 in accordance with notification No. 16-18/97-NI.I dated 1.6.2001 of the Ministry of Social Justice and Empowerment. For the said reason it was held that the petitioner was not a person with disability in terms of section 2(t) of the Persons with Disabilities Act, 1995 and could not claim benefit of reservation meant for the persons with disabilities and his prayer for benefit of reservation could not be upheld. Aggrieved by the same the petitioner has approached this Court.

It is not in dispute before this Court that in the guidelines for other disabilities issued by the Ministry of Social Justice and Empowerment, New Delhi dated 1st June, 2001 it has been clearly laid down that one eyed person who has full vision in other eye is

disable only to the extent of 30%. That being the position, there does not appear to be any error in the order dated 31.7.2009 of the Chief Commissioner For Persons With Disabilities.

Learned counsel for the petitioner has sought to argue that the disability certificate is quite old one and the respondents ought not to have relied upon the same rather a fresh disability certificate by new Medical Board is required.

This Court is unable to accept the said submission of learned counsel for the petitioner. The petitioner has chosen to submit the disability certificate of the year 1993 and if the same has gone against him it is not open to him to turn around to challenge the same, which was his sheet anchor for consideration before the respondent authorities.

For the aforesaid reasons, this Court does not find any merit in this application. It is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

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