

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17690 of 2015

Sanjay Kumar, Son of Binod Singh, Resident of Village Suari, P.S. Garahani,
District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar.
2. The Union of India, through the Secretary, Department of Defence Govt. of India.
3. The President Central Airman Selection Board New Delhi.
4. Sri B. Pathak Wing Commander Classified Special 4110 Airman Selection Centre, Bihta, Patna, Bihar.
5. Juhi Arora, Sqn. Ldr. MO. 17 Wing Air force Gorakhpur.
6. Leena Kundra Fit. Lt. Medical Officer Air Force Station, Kanpur.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 17009 of 2015

Rahul Kumar Singh son of Late Bharat Singh, Resident of Mohalla- Mahivir
Asthan Sasaram, P.S.- Sasaram Sadar, District- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar
2. The Union of India through the Secretary, Dept. of Defence, Govt. of India
3. The President Central Airman Selection Board New Delhi
4. Sri. B. Pathak, Wing Commander Classified Special 4110 Airman Selection Centre, Bihta, Patna, Bihar
5. Juhi Arora, Sqn. Ldr. MO. 17 Wing Air Force, Gorakhpur
6. Leena Kundra Fit. Lt. Medical Officer Air Force Station, Kanpur

.... Respondent/s

Appearance :

(In CWJC No. 17690 of 2015)

For the Petitioner/s : Mr. Vindhyakeshri Singh, Sr. Advocate

Mr. Neeraj Kumar Alias Sanidh

For the Respondent/s :

Mr. G.P. Ojha- GP-22

Mr. Atal Bihari Pandey

For the Union of India & Ors: Mr. Arvind Kumar Tiwary

(In CWJC No. 17009 of 2015)

For the Petitioner/s :

Mr. Vindhyakeshri Singh, Sr. Advocate

Mr. Neeraj Kumar Alias Sanidh

For the Respondent/s :

Mr. Nadeem Seraj- GP20

For the Union of India:

Mr. Renuka Sharma, CGC

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 27-01-2016

Heard learned counsel for the parties.

The two petitioners before this Court are aggrieved because they have been disqualified from selection after they underwent medical examination by the Medical Board of the Indian Air Force Station at Gorakhpur. The petitioners were thereafter subjected to an Appeal Medical Board at Kanpur Air Force Station and even the appeal board gave a concurrent finding with regard to abnormality in ECG with regard to both the petitioners. It is in this background that the petitioners have filed the writ applications by annexing certain opinion obtained from All India Medical Sciences, Patna certifying that there is no cardiac issue which can otherwise make the petitioners ineligible from selection for the post of Air Man.

A counter affidavit has been filed in the case of Sanjay Kumar (C. W. J. C. No. 17690 of 2015), which has also been adopted for the purposes of the case of Rahul Kumar Singh as well. The respondents in their counter affidavit have taken a plea that the medical standards required for selection in the Indian Air Force are at variance with what is generally accepted and perceived in appointment on a civil post. It is the contention of the learned Additional Solicitor General of India, representing the respondents that the petitioners were given an opportunity for a second opinion and test before an appeal medical board. If there was any omission

or mistake, which may have cropped up at the first instance at Gorakhpur then same would have been rectified by the appeal board at Kanpur. But if they too find identical problem with the medical conditions of the two petitioners then it cannot be said that it could be a case of human error, which requires a relook or revisit.

There is no allegation as such against the respondent-authorities on the opinion of the medical conditions of the two petitioners and there is no reason for this Court to overlook the opinion of the medical board or the appeal medical board of the Indian Air Force.

The Court is in agreement with the stand of the Union of India that the rigors of physical conditions which are required and laid down for recruitment in combat forces are much more rigorous and exacting than for an employment on a civil post. Looking at the challenging conditions of work and assignment which such people are expected to perform in very demanding conditions the standards of physical / medical test has to be adhered.

The apprehension of the learned Sr. Counsel for the petitioners that the opinion of the medical board should not come in the way if the petitioners apply for other consideration and selection, may be the apprehension alone, because it will depend as to what the recruiting agency or organization is looking for in terms of medical fitness. Merely because these petitioners were not found fit for the post of Air Man under the Indian Air Force the same position

may not persist for any other selection, but that is only a hypothetical submission on which nothing can be said at this juncture, because the physical conditions of the petitioners will be tested at the time of their recruitment by the agency and opinion on their conditions of health can only be expressed then.

In view of the above, Court is not inclined to pass any direction in favour of the petitioners for their consideration for appointment as an Air Man.

Both the writ applications are dismissed, accordingly.

(Ajay Kumar Tripathi, J)

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