

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2079 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 16777 of 2014**

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Sandip Kumar Paswan, son of Sri Nageshwar Paswan, Village- Ahuri, P.O.-
Shyamnagar, Nima, P.S.- Amas, District- Gaya (Bihar)

.... Appellant

Versus

1. The Union of India through Home Secretary, Government of India, New Delhi.
2. Law Secretary, Government of India, New Delhi
3. D.I.G., Group Centre, C.R.P.F., Jhaphan, Muzaffarpur (Bihar)
4. D.G.P., Office Bihar Sector, C.R.P.F., Aashiyana-Digha Marg, P.O. Aashiyana
Nagar, Patna (Bihar)- 800025
5. State of Bihar through Chief Secretary, Govt. of Bihar, Patna.

.... Respondents

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Appearance :

For the Appellants : Mr. Sunil Kumar Singh No-10, Advocate.

For Union of India : Mr. S.D. Sanjay, A.S.G.

Mr. Ravinder Kumar Sharma, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 11-05-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 1st of October, 2015 in C.W.J.C. No. 16777 of 2014, whereby the writ application filed by the appellant was dismissed when even after Review Medical Board, appellant was not found medically fit for joining the Central Reserve Police Force (for short “C.R.P.F.”). The

sole appellant in the present appeal was Petitioner No. 3 before the learned Single Bench.

2. An advertisement was published for recruitment in the Central Armed Police Forces vide Advertisement (Annexure-1 to the writ application). The process of recruitment was to start from 27th of May, 2013. The advertisement contemplated the detailed physical standards for appointment to the Police Force. The appellant was offered appointment after he underwent the written and physical standard test. He was offered appointment in C.R.P.F. on 15th of July, 2014. One of the conditions in the Letter of Appointment is that after joining, he will be subjected to medical test and fitness in the medical test is compulsory.

3. The appellant was subjected to medical test and found to be not medically fit. Aggrieved, he filed a writ application before this Court. The learned Single Bench passed an order on 27th of August, 2015 directing I.G., C.R.P.F., Bihar to constitute a Medical Board under his supervision and subject the three petitioners to a medical test afresh. On the basis of such direction, a Medical Board was constituted in which, the appellant was found to be not medically fit, whereas one of the writ petitioners was found fit and appointed. It is on the basis of opinion of the Review Medical Board, the learned Single Bench dismissed the writ application.



4. In the present appeal, the grievance of the appellant is that he was subjected to medical test before joining, which is not permissible. To assert that he was subjected to medical test before joining, it is pointed out that he has not been paid any salary in pursuance of his joining pursuant to letter of appointment dated 15th of July, 2014.

5. A perusal of the counter affidavit filed by the respondents in the writ application shows that the appellant was found medically fit in the medical examination conducted on 12th of June, 2013. Thereafter the appointment letter was issued on 15th of July, 2014 i.e. after a gap of one year from his previous medical test. Therefore, as soon as the appellant joined his duties, he was sent before the Medical Board wherein, the appellant was found to be suffering from PROMINENT AND TORTOUS VEINS OVER (LT), VARICOSE VEIN (L T) LOWER LEG AND SCOLIOSIS. It is categorically asserted that appellant was sent before the Medical Board as soon as he joined his duties on 11th of August, 2014.

6. We have heard learned counsel for the parties and find no merit in the present Letters Patent Appeal.

7. There is a condition in the letter of appointment dated 15th of July, 2014 that a candidate will be subjected to medical test after joining and qualifying the medical test is compulsory. It is in



pursuance of such condition, the appellant was subjected to medical test where he could not qualify. In terms of the direction of this Court, a Review Medical Board was constituted but again the appellant could not qualify the medical test. Therefore, we do not find any illegality in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal.

8. The argument that appellant could be subjected to medical test only after joining and not before joining is not tenable inasmuch as, there is a categorical assertion on behalf of the respondents that the appellant joined on 11th of August, 2014 and thereafter was subjected to medical test. It is post letter of appointment dated 15th of July, 2014. The question of payment of salary is totally irrelevant for the purposes of determining the question as to whether the appellant is suitable for appointment. Once the appellant has been found to be not suitable for appointment, the respondents could not be directed to permit the appellant to join his duties. The grievance of the appellant in the writ application is not for payment of salary nor such question arises for consideration as the appellant having found not medically fit, cannot claim wages from the date of joining.

9. The date of joining and the medical test is practically coterminous. Therefore, it cannot be said that the appellant

should be paid wages even if he was not medically fit.

10. In view thereof, the present Letters Patent Appeal
is dismissed.

(Hemant Gupta, J)

I agree
Ahsanuddin Amanullah, J

(Ahsanuddin Amanullah, J)

P.K.P.
N.A.F.R.

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