

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.656 of 2013

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Abhimanyu Kumar, Son of Arun Kumar, Resident of Village- Fattepur, Police Station- Parasbigha and District- Jehanabad (Bihar).

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, New Delhi.
2. The Secretary, Ministry of Home Affairs, Govt. of India, New Delhi.
3. The Director General, Central Industrial Security Force, 13 C.G.O. Complexes, Lodhi Road, New Delhi.
4. The Inspector General, Central Industrial Security Force, Patna.
5. The Deputy Inspector General, Central Industrial Security Force, Ministry of Home Affairs, Government of India, New Delhi.
6. The Regional Director (ER) Staff Selection Commission, 8-A-B, Beli Road, Allahabad (U.P.) - 211002.
7. The Assistant Inspector General C.I.S.F., Eastern Zone H.Q. Patna, the Chairman Security Board, Boring Road, Patna- 13.
8. The Commandant, Central Industrial Security Force, RTC Deoli (Rajasthan).
9. The Commandant, 95 BN, Border Security Force, Ministry of Home, Government of India.
10. The Deputy Director, Central Region, Staff Selection Commission, Department of Personnel & Training, 8-A-B, Beli Road, Allahabad- 211002.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Tiwari
Mr. Arun Kumar

For the Respondent-Union : Mr. Anshuman Singh, CGC, UOI

For Staff Selection Commission: Mr. Anjani Kumar Sharan, CGC, UOI

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 04-08-2016

Heard Mr. Arun Kumar Tiwari, learned counsel
appearing for the petitioner, Mr. Anshuman Singh, learned Central
Government Counsel for the Union of India and learned counsel
appearing for the Staff Selection Commission.

The petitioner is aggrieved by the order dated 3.8.2012
of the Commandant, Central Industrial Security Force, RTC, Deoli,



respondent no.8 herein whereby the provisional appointment of the petitioner has been cancelled and which has been affirmed by the appellate authority. Copies of such orders are impugned at Annexures-7 and 8 series to the writ petition. The ground assigned is that he has failed in his height which is short by 1 centimeter, of the height prescribed for appointment in Central Industrial Police Force.

Mr. Arun Kumar Tiwari, learned counsel appearing for the petitioner has made reference to the provisional appointment order annexed at Annexure-6 dated 4.7.2012 to submit that Clause 2(iv) vests jurisdiction in the appointing authority to discharge the petitioner from service only in case his conduct is found to be unsatisfactory and which is not the case here. The second ground raised by Mr. Tiwari to question the impugned order is that while the petitioner was initially found to be measuring 170 centimeters which is the prescribed height for entry into the service, on re-measurement it has been reduced arbitrarily. According to Mr. Tiwari, every time on a re-measurement, the petitioner is disqualified. To canvass this position he refers to certain documents enclosed at Annexure-9 series to submit that in a second round attempt by the petitioner made in the year 2013, initially, again he was measured 170 centimeters but on re-measurement, it again came to 169 centimeter. In short the submission of Mr. Tiwari is that while a provisional

appointment could have been terminated only in case the conduct was found unsatisfactory, even the reason assigned in the order impugned at Annexure-7 regarding the short height of 1 centimeter is not correct.

The argument of Mr. Tiwari is contested by Mr. Anshuman Singh, learned Central Government Counsel to submit that the provisional appointment is liable to be cancelled on the grounds mentioned at paragraph 2(iv) and 2(xii) and since in the present case the height of the petitioner was found short by 1 centimeter that a Board was constituted and the report is present at Annexure-C to the counter affidavit which reports the height of the petitioner at 169 centimeters i.e. 1 centimeter less than the prescribed height. He thus submits that it is not a case of termination for unsatisfactory conduct as contested by Mr. Tiwari rather it is on grounds found in Clause 2(xii) which talks about meeting the medical standard.

An issue of deposit of Rs.3,000/- has also been canvassed by Mr. Tiwari to support the case of the petitioner. Mr. Singh, learned Central Government Counsel with reference to paragraph 6 of the appointment order present at Annexure-6 submits that it is a caution money deposited by every person.

I have heard leaned counsel for the parties and I have

perused the records.

A selection process initiated in the year 2011 resulting in provisional appointment order dated 4.7.2012 was subject to fulfillment of the prescriptions set out in paragraph 2. The records transpire that during the course of documentation the height of the petitioner was found to be less by 1 centimeter and which resulted in reconstitution of the medical board by the Commandant. A medical board consisting of the Commandant and two members was constituted and which re-measured the height of the petitioner enclosed at Annexure-C but was found at 169 centimeters. The proceedings of the Board was forwarded to the Inspector General and has resulted in the impugned order of termination of provisional appointment dated 3.8.2012 annexed at Annexure-7 which has been affirmed vide Annexure-8 dated 3.9.2012.

The documents present at Annexure-C series are supportive of the conclusion drawn in the order impugned dated 3.8.2012. In fact all issues advanced by Mr. Tiwari is put at rest by the document enclosed with the rejoinder which shows that the petitioner had again attempted to seek appointment in the Force in the year 2013 and although initially he was again measured at 170 centimeters but was required to again appear before the Board for re-measurement. Although the consequence of re-measurement has not

been brought on record but it is stated at the Bar by Mr. Tiwary that on re-measurement the height of the petitioner was again found at 169 centimeters.

In the circumstances discussed above the order(s) impugned, calls for no interference.

The writ petition is dismissed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.08.2016
Transmission Date	N.A.