

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19986 of 2011

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Mukesh Kumar Tiwari, son of Ganesh Tiwari, resident of village-Bilouti, Post-Bilouti, Police Station-Shahpur, District-Bhojpur(Ara)

.... Petitioner

Versus

1. The Union of India through the Director General of Central Police Organisation, New Delhi
2. The Principal Secretary, Department of Home (Police), Government of India, New Delhi
3. The Inspector General, SSB, Bihar, Patna
4. The Dy. Inspector General, S.S.B., Purnea (Bihar)
5. The Chairman, Staff Selection Commission (C.R.) 8 A/B, Bailey Road, Allahabad
6. M.K.Gahlaut, Commandant Chairman, MET SSB, Purnea
7. Dhiraj Pal, Commandant (MEO) MET, S.S.B. Purnea
8. Dr. Kaushal Kishore (MO) SU) Commandant (Med) STC BSF, Udhampur, Jardk

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rakesh Ranjan, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

9 12-05-2016 Heard Sri Rakesh Ranjan, learned counsel for the petitioner, learned counsel, who has appeared on behalf of Union of India as well as Sri Anjani Kumar Sharan, learned counsel, who has appeared on behalf of Respondent no.5/ Staff Selection Commission (C.R.) 8 A/B, Bailey Road, Allahabad

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has made a prayer

for directing the Respondents to consider him as medically fit and appoint him as constable.

It is case of the petitioner that pursuant to advertisement for the post of Constable (General Duty) in the Central Armed Forces, the petitioner applied and was finally selected subject to fitness certificate granted by the Medical Board. He was examined by the Medical Board and the Medical Board found him unfit. Thereafter, his candidature was cancelled. The Medical Board found him unfit on two grounds; firstly colour blindness and secondly he was found patient of Hypertension.

As per provision, the aggrieved person was having right to file an appeal within fifteen days after being examined by another appropriate medical doctor. The petitioner, thereafter, got examined by the Civil Surgeon and the Civil Surgeon found him medically fit for the said post. The petitioner filed an appeal, which was accepted and review Medical Board was constituted. He was re-examined by the review Medical Board and this time at Jalandhar during re-medical examination, the petitioner was again not found fit since he was patient of hypertension having B.P. 164/92. Meaning thereby that the petitioner was again found unfit in the review medical examination.

Learned counsel for the petitioner submits that two

Medical Boards of the same have given two different opinion. He submits the in the first examination, the petitioner was found unfit on the ground that he was having colour blindness and was patient of Hypertension. However, in review medical examination, he was only found as patient of hypertension. He submits that a candidate having only hypertension cannot be disqualified for being selected in Armed Forces, whereas in the counter affidavit filed on behalf of Respondents, a specific stand has been taken that for being selected on the post of constable (General Duty) in Central Armed Forces, a candidate must be medically and physically fit . Accordingly, the petitioner may not be entitled for the said post.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. Keeping in view the fact that an appeal preferred by the petitioner was accepted, review medical board was constituted and, thereafter, the petitioner was re-examined and he was again found unfit, there is no any reason to pass any positive order.

(Rakesh Kumar, J)

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