

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.843 of 2015

In

Civil Writ Jurisdiction Case No. 3750 of 2014

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1. The Union of India through D.I.G.P. Group Centre, C.R.P.F., Durgapur (W.B.)
 2. Government of India, through Secretary Staff Selection Commission (E.R.).
 3. Deputy Inspector General, (D.I.G.P.) Group Centre, C.R.P.F. Durgapur (West Bengal).

.... Appellants

Versus

Ravi Ranjan Tiwari son of Vijay Kumar Tiwari Resident of village- Mangraon, Police Station- Kanchwan, District- Rohtas.

.... Respondent

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Appearance :

For the Appellant/s : Mr. Anjani Kr. Sharan, A.S.G.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

4. 28-07-2017

Union of India is aggrieved by order dated 25.04.2014, passed by learned Single Judge, who has allowed the writ application of the sole private respondent by declaring and holding that the reason given for disqualification by the medical practitioner cannot become the reason for denial of a valuable right of employment in the present situation.

Since the Union of India is not satisfied with the adjudication and direction, they decided to



file the present Letters Patent Appeal.

Heard learned counsel for the Union of India. His first objection was that the writ application is not maintainable in the High Court at Patna. The learned Single Judge considered the preliminary objection and rejected the same on the ground that the advertisement was issued for recruitment of eligible candidates from various States including the State of Bihar and the private respondent, therefore, responded on the basis of the said advertisement. A part of the cause of action has arisen within the jurisdiction of this Court, not only this, keeping in mind that Staff Selection Commission at Allahabad is saddled with the responsibility of recruitment, issued advertisement, the physical fitness and medical fitness were conducted in other States and therefore a candidate cannot be expected to keep running around from one State to the other and in situation of this kind, learned Single Judge has rightly held that Article 226(2) of the Constitution duly empowers any High Court to exercise its authority. The preliminary objection negated by the learned Single Judge on



the ground indicated cannot be said to be bad.

The other aspect of the matter is whether the reason given by learned Single Judge can be said to be bad in relation to the direction for appointment. The Court is tempted to reproduce the rationale and reasoning provided by the learned Single Judge in his own words which reads as such:

“10. Relevant portion of Annexure ‘H’ which is the report on the petitioner’s medical examination is crucial for determination of the present dispute which is being quoted hereinbelow:-

**“I hereby certify that I have examined Shri / Kumari Ravi Ranjan Tiwary Roll No. 4205507026 Age 19 yrs. son of Shri Vijay Kr. Tiwary candidate for employment in the C.R.P.F. and cannot discover that he/she has any disease (communicable or otherwise) constitutional weakness or bodily infirmity except.....do not consider this a disqualification for employment in the C.R.P.F.
(This may be filled up after examining the candidate for knock knee, bow legs, squint eyes, inability to close any (left or right) eye, inability to flex fingers properly, varicose veins or any other obvious disabilities which are likely to affect his functioning as a member of C.A.P.F.)”**

11. If the doctor was of the opinion that he suffered from any other obvious disabilities which were likely to affect his functioning as a member of C.A.P.F. with reference to bodily infirmity mentioned therein, were required to be mentioned in the first paragraph itself. Therefore, the medical unfitness which were found by Medical Officer at the time of the



petitioner's examination could not be said to be such as would have disqualified the petitioner for employment in C.A.P.F. Even in the Review Medical Board, it has not been found that the medical unfitness as shown was a disqualification for employment in C.R.P.F. I am of the view that the petitioner was wrongly denied his employment in C.R.P.F. on the ground of such findings.

12. I am of the considered view that unless medical unfitness found by the Medical Officer / Review Medical Board is such that it would be a disqualification for employment, persons should not be denied appointment on that ground.

13. In view of the above, I allow this writ application and direct the Respondent No. 3, D.I.G.(P), Group Centre, Durgapur, West Bengal to allow the petitioner to join the post of constable (GD) C.R.P.F. in view of the selection and do not deny him employment on the ground of unfitness as shown in the report of the medical examination or review medical examination.

14. This application is accordingly allowed.

15. Before I part with I must record that the result of the review medical examination (Annexure-J) appears to have not been filled by a qualified medical practitioner in as much as the term "Undescended Hernia" has been repeatedly misspelt. Denying a person public employment after his selection for the post on the ground of his medical unfitness is a very serious matter and it should not be dealt with in casual and cavalier manner."



Non-interference by the learned Single Judge in a case like this would have amounted to extending in justice to the private respondent and for the same reason this court is not convinced that any interference is warranted with the order of learned Single Judge.

Accordingly, this appeal is dismissed.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

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