

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16779 of 2016

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1. Shyam Kishor Singh S/o Prabhash Singh, R/o Village Majosh Dih, P.O. Bachhwara, P.S. Bachhwara, District- Begusarai.

.... Petitioner/s

Versus

1. The Union of India through the Home Secretary, Ministry of Home Affairs, New Delhi.
2. The Staff Selection Commission through its Chairman, Government of India, New Delhi.
3. Chairman, Staff Selection Commission, Government of India, New Delhi.
4. Regional Director (Central Region), Staff Selection Commission, Allahabad.
5. Deputy Director (Examination), Staff Selection Commission, Allahabad.
6. Medical Examination Board, through the Secretary, Ministry of Home Affairs, New Delhi.
7. 44th Battalian Sashastra Seema Bal, Narkatiaganj, through its Commandant
8. All India Institute of Medical Science (AIIMS), Patna through its Director.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Harsh Singh, Adv. Mr. Ravi Shankar Choudhary, Adv.
For the Respondent/s	:	Mr. Anjani Kumar Sharan, A. S. G.
For the AIIMS	:	Mr. Binay Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-07-2017

Heard Mr. Harsh Singh, learned counsel for the petitioner, Mr. Anjani Kumar Sharan, learned Assistant Solicitor General for the SSB and Mr. Binay Kumar Pandey learned counsel for the All India Institute of Medical Sciences, Patna ('AIIMS' for the sake of brevity).

The matter has traveled long distance and the rejection of the candidature of the petitioner by the respondent Sashastra Seema Bal (SSB) on the report given by the Medical Examination Board, having been put to scrutiny before the Board constituted by the 'AIIMS' on consent given by the parties contesting, has resulted in the report, a



copy of the same is placed on record by way of an affidavit filed by the 'AIIMS', Patna. The original copy of the report is also on the record of the proceedings. The Medical Board Members consisted of the Head of the Cardiac Department; Assistant Professor, General Medicine; the Senior Resident, Neurology Department as well as the Senior Resident, Psychiatry department. The report placed at Annexure R8/A, reports that no signs of 'tachycardia' was found in the petitioner in course of the investigation so carried out either clinically or on ECG, however, **occasional fine tremors was found with no sign of psychiatric illness.** The petitioner was otherwise found to be a normal health. According to the Medical Board, it is now in the discretion of the respondent 'SSB' to take a decision on the matter.

The short submission made by Mr. Singh learned counsel for the petitioner in reference to this report at Annexure-8/A and the statement made by the Director at paragraph 6 of the affidavit is submit that the petitioner has been cleared of the major objection regarding 'tachycardia', and although 'occasional fine tremors' have been reported but the guidelines issued by the Government of India in its Ministry of Home Affairs stipulates at paragraph 6, the general ground of rejection for a candidate from appointment and includes 'tachycardia' but the petitioner has been cleared of the suspected



ailment. He further adds that in so far as the 'tremors' are concerned, it is governed by paragraph 7 which contains the 'Minor acceptable defects' and gives a discretion to the appointing authority to appoint a candidate despite suffering from this defect provided the same are reported without any organic cause. It is submitted that in view of such stipulation which permits a candidature despite tremors, the report given by the Medical Board as certified by the Director himself, the case of the petitioner is worth reconsideration.

The arguments of Mr. Singh has been contested by Mr. Sharan learned ASG who in reference to sub para (vii) of paragraph 7 of the guidelines submits that a tremor has been categorized as upper extremities. He thus submits that yet the petitioner yet does not clear himself from the disqualification.

I have heard learned counsel for the parties and I have perused the records.

As I have noted at the outset the Medical Board so constituted by the Director, 'AIIMS' was with the consent of the parties and consisted of the major faculties relevant for opinion on the issue of 'tachycardia'. This Medical, Board has cleared the petitioner of any such ailment and since such report is based on clinical as well as ECG test, which are necessary to confirm the ailment, the petitioner having crossed over the major impediment coming his way and in view of the



undisputed position that the general guidelines issued by the Ministry of Home Affairs for Recruitment Medical Examination in Central Armed Police Forces and Assam Rules at paragraph 7 holds ‘a tremor without any organic cause’ as an acceptable defect, the petitioner has made out a case for reconsideration because his disqualification by the Medical Board (s) on grounds of ‘tachycardia’, was apparently not based on any clinical test.

The case of the petitioner requires a reconsideration by the Commandant, Sashastra Seema Bal in the light of the observation made hereinabove and the matter is accordingly remitted to him for taking a decision in this regard afresh after satisfying himself on the contest, within a maximum period of six weeks from the date of receipt/production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	A.F.R.
CAV DATE	NA
Uploading Date	10.08.2017
Transmission Date	NA

