

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16766 of 2016

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Karyanand Kumar, Son of Rameshwar Saw, resident of Village- Sabikpur, P.O.- Damodarpur, P.S. + District- Lakhisarai.

.... Petitioner/s

Versus

1. The Union of India through the Ministry of Personnel & Public Grievance, Department of Personnel and Training, Staff Selection Commission, Lodhi Road, New Delhi.
2. The Regional Director, Staff Selection Commission, Central Region, 21-23, Lowther Road, Allahabad.
3. The Inspector General, FTR, Headquarter, SSB, Patna, Rukanpura House, Rukanpura, Bailey Road, Patna.
4. The Chairman, PET Board, 27th B.N., S.S.B., Narkatiaganj, Bihar.

.... Respondent/s

With

Civil Writ Jurisdiction Case No. 16807 of 2016

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Kuldeep Kumar, son of Narendra Yadav, resident of village - Jinhara, P.O. - Kala, P.S. - Laxmipur, District - Jamui.

.... Petitioner/s

Versus

1. The Union of India through the Ministry of Personnel & Public Grievance, Department of Personnel and Training, Staff Selection Commission, Lodhi Road, New Delhi.
2. The Regional Director, Staff Selection Commission, Central Region, 21-23, Lowther Road, Allahabad.
3. The Inspector General, FTR, Headquarters, SSB, Patna, Rukanpura House, Rukanpura, Bailey Road, Patna.
4. The Chairman, CAPF – 56th B.N., SSB., Bathnaha, District - Araria, State - Bihar.

.... Respondent/s

Appearance :

(In CWJC No.16766 of 2016)

For the Petitioner/s : Mr. Arun Kumar, Adv.

Mr. Sudhir Kumar Singh, Adv.

For the Respondent/s : Mr. AnjaniKumar Sharan, ASG

For the Respondent-SSC : Mr. Rajesh Kumar Verma, CGC

(In CWJC No.16807 of 2016)

For the Petitioner/s : Mr. Arun Kumar, Adv.

For the Respondent/s : Mr. S.D Sanjay (Add. Soc. Gen.)

Mr. Rajesh Kumar Verma, CGC

For the Respondent-SSC : Mr. Anjani Kumar Sharan, ASG

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-11-2017



Since the two writ petitions raise common question hence they have been heard analogous and with the consent of the parties are being disposed of by this common judgment.

Heard Mr. Arun Kumar, learned counsel appearing for the petitioners in each of the two writ petitions. Mr. Anjani Kumar Sharan, learned Assistant Solicitor General for the Union of India in CWJC No.16766 of 2016 and appears for the Staff Selection Commission in the 2nd writ petition. Mr. Rajesh Kumar Verma, learned Central Government Counsel appears for the Staff Selection Commission in CWJC No.16766 of 2016 and assists Mr. S.D. Sanjay, learned Additional Solicitor General for the respondent-Union of India in the 2nd writ petition.

In each of the two cases the petitioners have been declared medically unfit for appointment as Constable CT/GD (Male) in the Seema Suraksha Bal (hereinafter referred to as 'the SSB').

In so far as the petitioner in CWJC No.16766 of 2016 is concerned, the declaration of unfitness by the Medical Officer is on grounds of 'scrotal swelling' despite operation of hydrocele having been undergone by the petitioner, a copy of which is enclosed at Annexure-6. The petitioner got himself examined at the Sadar Hospital, Lakhisarai and the Government Doctor certified that there was no 'scrotal swelling' after operation performed on the petitioner on 3.1.2016. The certificate granted by the Medical Officer, Sadar Hospital, Lakhisarai forms part of Annexure 7 at running page 23 and is dated 20.5.2016. The petitioner



armed with the opinion preferred statutory appeal but the Review Medical Board has again declared him unfit on the same grounds of 'scrotal swelling'. The order of the Review Medical Board is impugned at Annexure 9 and is dated 23.8.2016.

In so far as CWJC No.16807 of 2016 is concerned, the petitioner has been disqualified by the Medical Board constituted for the same selection process for having an elbow angle of more than 15 degree vide Annexure 5 and the view has been endorsed by the Review Medical Board vide Annexure 8.

Mr. Arun Kumar, learned counsel appearing for the petitioners in both the writ petitions has first referred to the report of the Medical Officer, Sadar Hospital, Lakhisarai and the Ultrasound report of Sadar Hospital, Lakhisarai at Annexure 10 to CWJC No.16766 of 2016 to submit that the opinion of the Medical Officer, Sadar Hospital, Lakhisarai at running page 23 dated 20.5.2016 is confirmed from the ultrasound report which reports that there is no 'scrotal swelling'.

He next refers to the guidelines enclosed in the counter affidavit of the Union of India to submit that the 'Grounds for Rejection, is listed at paragraph 6 of the Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles and although item no.25 at paragraph 6 disqualifies a candidate with 'large hydrocele', even if curable by operation but a small hydrocele, if operated upon and with no bad scar is left after operation, has been directed to be accepted. It is thus submitted that the medical opinion at



Annexures 6 and 9 of CWJC No.16766 of 2016 is de hors the guidelines.

Mr. Arun Kumar while arguing for the petitioner in CWJC No.16807 of 2016 has made reference to the general ground of rejection present in the guidelines to submit that a carrying angle up to 20 degree has been accepted as minor defect yet the Medical Board as well as the Review Medical Board has gone beyond the guidelines. He submits that the medical report of the petitioner placed at Annexure 5 and the order of the Review Medical Board at Annexure 8 to the writ petition is again contrary to the guidelines.

I have heard learned counsel for the parties and I have perused the records and it stands confirmed that the opinion expressed by the Medical Board as endorsed by the Review Medical Board in each of the two cases, is mechanical and without consideration of the stipulations present in the guidelines in force on the issue.

A copy of the guidelines enclosed by Mr. Sharan in the counter affidavit filed on behalf of the Inspector General, FTR, Headquarter, SSB, Patna in CWJC No.16766 of 2016 regulates the issue of Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles and in so far as the issue of hydrocele is concerned, while a small hydrocele has been found acceptable for appointment as manifest from paragraph 6(25), in so far as the carrying angle of elbow is concerned, paragraph 7 thereof deals with minor acceptable defects and sub-paragraph (m) clearly stipulates that carrying elbow angle up to 20 degree may be accepted. Clearly the Medical Board and the Review



Medical Board while opining on the two petitioners have defaulted and have gone contrary to the stipulations present in the guidelines.

In effect the order of the Medical Board as well as the Review Medical Board present at Annexures 6 and 9 in CWJC No. 16766 of 2016 and at Annexures 5 and 8 in CWJC 16807 of 2016 cannot be upheld and are accordingly quashed and set aside.

The matter is remitted to the Inspector General, FTR, Headquarter, ‘SSB’ to take all effective steps for constitution of the Medical Board afresh for expressing their opinion on the two petitioners bearing in mind the stipulations present in the guidelines in force on the issue of Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, a copy of which is enclosed at Annexure R2/1 to the counter affidavit filed in CWJC No.16766 of 2016.

Let the Medical Board be constituted within four weeks from the date of receipt/production of a copy of this judgment.

The writ petitions are allowed with the direction above.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.11.2017
Transmission Date	NA

