

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16399 of 2016

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Baliram Kumar S/o Sri Ram Sunder Pandey Resident of Vill+P.O. Nagari, P.S. -
Charpokhari, District- Bhojpur.

.... Petitioner/s

Versus

1. The Union of India through the Home Secretary to the Government of India, New Delhi.
2. Staff Selection Commission, Department of Personnel and Training Ministry of Personnel , Public Grievances and Pension, Block No. 12, CGO Complex, Lodhi Road, New Delhi -110054 through its Chairman.
3. Staff Selection Commission (Central Zone) Allahabad through its Regional Director.
4. Deputy Commandant (Med) Member, DME Centre Code-3207, 12th BN Sashastra Seema Bal, Kishanganj.
5. Review Medical Examination Board II, 44th BN Sashastra Seema Bal , Narkatiyaganj, West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.A. Ojha, Advocate. Mr. Nitesh Kumar, Advocate.
For the SSC	:	Mr. Sanjay Kumar, Asst. S.G
For the SSB	:	Mr. Anjani Kumar Sharan, CGC

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 16-02-2017

Heard learned counsel for the petitioner.

Through this writ application, the petitioner seeks quashing of the report of the Review Medical Board dated 15.09.2016, as contained in Annexure 9, and further direction to the respondents to consider the petitioner for appointment on the post of Constable (GD) in Central Armed Police Forces.

The petitioner, in his medical examination, done for the purpose of selection as Constable (GD), was found medically unfit



on the ground of right side undescended testis. Medical Report is appended as Annexure 5. Thereafter, the petitioner got him examined by Deputy Superintendent, Sadar Hospital, Ara, Bhojpur who has given a report which is appended as Annexure 7. From the said report, it appears that the Doctor has found that his left Testis is quite well and healthy in the scotalsae. Libido is well maintained and spermatozoa counts are within normal limits and he is fit and fine to do the job. Then the petitioner filed appeal against the earlier decision and a Review Medical Board was constituted. The Board has also declared him unfit on the same ground.

Mr. A.B. Ojha, learned senior counsel appearing for the petitioner has vehemently argued and submitted that from the report contained as Annexure 7, it appears that the petitioner is fit for job.

However, in any view, it is not a civil Doctor who would decide the fitness for the purpose of job in the armed forces rather it would be the Review Medical Board of armed forces. However, on the appeal filed by the petitioner, a Review Medical Board was constituted. The Medical Board has also found unfitness. The petitioner challenges the said report of the Review Medical Board on diverse grounds. First ground is that in view of the guidelines concerned, the Appellate Authority should have been at the level of Joint Secretary of the Department concerned which has



not been done. I am unable to understand such ground which has been taken by the petitioner. However no order of the Appellate Authority has been appended with the writ petition to show that the order was not passed by the competent authority. That apart, it is not a case that the Appellate Authority did not admit his appeal and constituted the Review Medical Board. The Appellate Authority had constituted the Review Medical Board and the petitioner had appeared before the same. He was medically examined and again same ground of unfitness was found.

It is next contended that the Review Medical Board should have got opinion of the specialist or super specialist of the medical colleges and hospital as it was required in case of any controversy. This objection is noted only to be rejected as the petitioner has produced the Annexure 7 which also shows the same unfitness as it is stated in Annexure 7 that there is existence of right side undescended Testis which admittedly is one of the general ground for rejection.

This Court is unable to understand what is being tried to be demonstrated before this Court. A Review Medical Board itself is a creature of the Appellate Authority. The Appellate Authority had passed the order in favour of the petitioner by admitting appeal and constituting Review Medical Board. It is not understandable that how



the petitioner can challenge the same.

Thus, in my considered view, since the ground of unfitness stands admitted even by the document produced by the petitioner contained in Annexure 7, this writ application does not warrant any interference by this Court.

In the result, same is dismissed.

Let the guidelines produced by learned counsel for the Union of India at the time of hearing after serving copy of the same upon petitioner, be kept on record.

(Dr. Ravi Ranjan, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

