

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17813 of 2016

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Nilesh Pal, Son of Diwakar Pal, Resident of Village - Sigari Bahauari,
Police Station Ramnagar Distt. West Champaran. Petitioner.

Versus

1. The Union of India through the Chairman Staff Selection Commission, Central Region Allahabad 211021 (U.P.).
 2. The Directorate General (Ministry of Home C.R.P.F.C.G.O. Complex, Affairs Lodhi Road, New Delhi 110003.
 3. The Asstt. Commdt. 12 the BN SSB Kishanganj Near NH31 Biscuit Factory, Post and Distt. Kishanganj.
 4. The Inspector General FTR Hqrs SSB Siliguri Village Ranidanga PO Sursulanga Distt. Darjeeling West Bengal 734012.
 5. The Asstt. Commandant AQRS South Bengal Frontier Pers Rectt. Branch Ministry of Home Affairs Govt. of India 23 Lord Sinha Road Kolkata 71. Respondents.
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Appearance :

For the Petitioner : Mr. Rabindra Prasad Singh, Adv.

For the Respondent UOI: Mr. S.D. Sanjay (ASG)

For the SSC : Mr. Anjani Kumar Sharan, Adv.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 09-01-2017

Heard learned counsel for the petitioner, learned Additional Solicitor General for the respondent Union of India and learned counsel for the Staff Selection Commission.

Petitioner seeks quashing of the report of Review Medical Board dated 09.09.2016, as contained in Annexure-10 by which the Review Medical Board has found the petitioner unfit to be taken in services of the SSB due to hypospadiasis. Admittedly, the petitioner has qualified in the written test and physical efficiency test but the Medical Board constituted for the



purpose found him unfit vide Annexure-5 dated 25.05.2016 due to hypospodiasis and right shoulder dropping. The petitioner applied for review Medical Board, however, the Review Medical Board, though did not find petitioner suffering from right shoulder dropping, but has upheld and found him medically unfit in view of hypospodiasis. The petitioner claims that the Civil Assistant Surgeon, Sadar Hospital, Motihari has found the Medical Board's opinion that petitioner is suffering from hypospodiasis and right shoulder dropping to be erroneous.

Mr. Sanjay Kumar, Assistant Solicitor General draws attention of this Court towards Annexure-9 itself to show that no reason has been assigned in coming to the conclusion by Civil Assistant Surgeon whereas it is well settled that the medical examination is essentially required in selection in the Para Military Forces and it is within the domain of the Medical Board constituted for that purpose as well as the Review Medical Board to determine as to whether the appellant is fit or not. In the case of the petitioner the Review Medical Board has also found him unfit on the ground of hypospodiasis. He also places reliance upon the decision rendered by a Division Bench in LPA No. 1879 of 2012 vide judgment dated 09.03.2016 in the case of the Union of India through the Home Commissioner, Government of India, New Delhi & Ors. vs. Vikash Kumar. The Division Bench



has held as under:-

“10 The arguments of the Petitioner are required to be tested broadly on the principles laid down in the aforesaid judgments. The report of the experts of the Review Medical Board cannot be interfered with only because some doctor opined the other way. There is no allegation of bias or mala-fide against any of the members of the Medical Board or the Review Medical Board. The conclusions drawn by the Medical Board cannot be negated on the basis of a civil doctor, unaware of the physical standards required in the Para Military Forces. The opinion of the Board or the Review Medical Board cannot be said to be inchoate, casual, perfunctory or vague as there is no material to say so. Therefore, the High Court, in exercise of its power of judicial review, should not have directed the medical examination by a doctor posted in the High Court and to order his appointment only on the basis of such report.

11. Learned counsel for the Petitioner relies upon a judgment of the Hon'ble Supreme Court in the case of Rajesh Kumar and others v. State of Bihar and others AIR 2013 SC 2652, wherein the Supreme Court interfered with a process of written examination on account of erroneous model answer key. We do not find that the judgment in Rajesh Kumar (supra) is of any assistance to the argument raised by the learned counsel for the respondent as it was found that the model answer key of multiple choice questions was found to be erroneous. The principles laid down in the aforesaid judgment are not applicable in respect of physical standards to be assessed by the Medical Board.

12. In view of the above, the order passed by the learned Single Bench of this Court on 24th of July, 2012 in CWJC No.22281 of 2011 is not sustainable.



Consequently, the same is set aside and the writ application is dismissed.”

In this matter also, the petitioner has not been able to show, as there is no such pleading or material, that there is any allegation of bias or *mala fide* against any of the members of the Medical Board or the Review Medical Board. Thus, the Medical Board’s conclusion cannot be negated on the basis of a report of a civil doctor unaware of the physical standards required in the Para Military Forces.

Since the Review Medical Board’s conclusion cannot be found inchoate, casual, perfunctory or vague in nature, as there is no material to show that, this Court does not find it a case of warranting interference.

Accordingly, this writ petition stands dismissed.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2017
Transmission Date	NA

