

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.739 of 2017
IN
Civil Writ Jurisdiction Case No. 2574 of 2017
with

Letters Patent Appeal No. 745 of 2017
IN
Miscellaneous Jurisdiction Case No. 665 of 2017

- =====
1. The Union of India through the Secretary, Ministry of Home Affairs, New Delhi.
 2. The Army Recruiting Office (R.O.) (HQ.), Danapur Cantonment through the Commandant.
 3. The Commanding Officer, Military Hospital, Danapur Cantonment, Danapur.

.... Appellant/s

Versus

1. Dilip Kumar Yadav, Son of Deo Kumar Yadav, Resident of Village- Godhiyari, P.O. Kamlabari, P.S. Jainagar, District- Madhubani.

.... Respondent/s

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Appearance :

(In LPA No.739 of 2017)

For the Appellant/s : Mr. S.D. Sanjay, Addl. S.G.
Mr. Kumar Priya Ranjan, CGC
For the Respondent/s : Mr. Amish Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 01-05-2017

Even though both these Letters Patent Appeals under Clause 10 of the Letters Patent have been filed against the interlocutory orders passed by the writ Court in C.W.J.C. No.2574 of 2017 and M.J.C. No.665 of 2017 (Contempt Proceedings), after hearing learned counsel for the parties, this Court was primarily of



the opinion that in a matter pertaining to recruitment to the Army certificates issued by a civilian medical authority like Chief Medical Officer or Civil Surgeon has no significance. Army has its own specialized hospitals where specialized doctors and equipments for treatment are available and medical tests are conducted to evaluate the medical fitness of a person for recruitment for the armed services like the Army.

Prima facie, this Court is of the opinion that when there is a dispute with regard to the medical examination conducted by the Army authorities, Appellate Medical Board and other Boards are available in the Army itself and, therefore, the matter should have been referred to the Appellate Medical Board. That being so, learned writ Court could not have relied upon the certificates issued by civilian medical authorities.

This Court was inclined to refer the matter for examination of the petitioners by a specialized Appellate Medical Board of the Army Authorities itself, but the learned counsel for the petitioners submitted that the writ petition is pending consideration before the writ Court, it is only an interlocutory order, this Court should not interfere into the matter and should leave it to the learned Writ Court to take a decision.

Learned counsel for the Union of India argued that as the



coercive measures have been adopted in the contempt proceedings, the Union of India is left with no other alternative but to approach this Court. Faced with the above, learned counsel for the petitioners submitted that he will not press M.J.C. No.665 of 2017 until disposal of the writ petition and instead will be satisfied if the writ petition is decided on merits by an early date by the learned Writ Court.

Keeping in view the submission of learned counsel for the petitioner, we request the learned Writ Court to hear C.W.J.C. No.2579 of 2017 at an early date and dispose it of in accordance with law and, till disposal of the matter, not to proceed further with the contempt application.

With the aforesaid observations, both these appeals are disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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