

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1566 of 2016
IN
Civil Writ Jurisdiction Case No. 4339 of 2013**

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Vipendra Kumar Yadav, Son of Nandji Yadav, Resident of Village-+ P.O. Chakki,
Mathura Dera, P.S. Brahmipur Dist Buxar.

.... Petitioner-Appellant/s

Versus

1. The Union of India through Ministry of Home Affair New Delhi.
2. The D.G., I.T.B.P. Block- 2, C.G.O. Complex Lodhi Road, New Delhi 110003.
3. Dy. Director (NWR) Staff Selection Commission Block no. -3, Gr. floor
Kendriya Sadan Sector 9 Chandigarh 160017.
4. Dr. Prasant Kumar, Sain Medical Officer, D.M.O. Hazaribagh Centre.
5. Dy. Regional Director Ministry of Personnel P.G. and Pension Department of
Personnel and Training Staff Selection Commission (NWR) Kendriya Sadan
Sector-9, Ground Floor, Chandigarh.
6. The D.I.G., I.T.B.P. Bihar Sector, Bailey Road.

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. Pranav Kumar, Advocate
For the Respondent/s : Mr. S.D Sanjay (ADDL. SOC. GEN.)
Mr. Anshuman Singh, C.G.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 07-08-2017

In the matter of appointment of the petitioner as G.D.
constable in I.T.B.P., finding the petitioner to be medically unfit as he
was not meeting the required criteria for eyesight, failed in the
medical examination conducted by the Specialized Medical Board,
the writ petition in question was filed and the Writ Court held that for
appointment to specialized service like I.T.B.P., if a Medical Board
has given an opinion that the candidate is unfit for various reasons,
the same cannot be substituted or interfered with in a petition under



Article 226 of the Constitution of India. Except for contending that the petitioner meets the minimum requirement of vision stipulated in the advertisement, we find that the respondents have considered the matter and taking note of the following factors as indicated by the respondents in the counter affidavit, the learned Writ Court refused to interfere into the matter:

“6.That with regard to the averment made in paragraph no.3 of the rejoinder petition, it is stated that the petitioner has been declared medically unfit in DME and RME due to defective vision Rt.6/9, Lt.6/6 and cannot be considered for selection either, he has obtained higher marks than that of the minimum cut-off. As the standing policy of the Government is that only those persons who are fully fit in all respects are to be recruited to the CAPFs. The reasons for that are the personnel of the CAPFs are issued with lethal weapons and are expected to use them against insurgent/terrorists and enemies during war. If any of the personnel of CAPFs is not fully fit, he/she will either not be able to protect himself/herself or his/her colleagues in a battle with insurgent/terrorist groups and enemies or he/she will run the risk of killing innocent people or fellow personnel especially if his/her eyesight is weak”

Once for appointment to para military force, a decision is taken based on the expert opinion of a Medical Board, a writ Court exercising jurisdiction under Article 226 of the Constitution cannot sit an appellate authority over the said decision and take a different view. The learned Writ Court having acted in accordance to the requirements of law, we see no ground to interfere. The appeal is,



therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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