

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17149 of 2016

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1. Mausam Kumar Son of Virendra Yadav resident of Village- Bari Simraha, P.O.-
Bari Simraha, P.S.- Alauli, District- Khagaria.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Home Affairs, Govt. of India, New Delhi.
2. The Staff Selection Commission, Allahabad through its Review Director (CR), 8-AB, Beli Road, Allahabad-211002.
3. The Review Director, Staff Selection Commission (CR), 8-AB, Beli Road, Allahabad-211002.
4. The Directorate General, Central Armed Police Force, C.G.O. Complex, Lodhi Road, New Delhi.
5. The Director General of Police, Special Security Force, C.G.O. Complex, Lodhi Road, New Delhi.
6. The Director General of Police, Central Reserve Police Force, C.G.O. Complex, Lodhi Road, New Delhi.
7. The Director General of Police, National Investigation Agency, C.G.O. Complex, Lodhi Road, New Delhi.
8. The Director General of Police, Border Security Force, C.G.O. Complex, Lodhi Road, New Delhi.
9. The Director General of Police, Sashatra Seema Bal, C.G.O. Complex, Lodhi Road, New Delhi.
10. The Deputy Inspector General of Police, Assam Rifles, C.G.O. Complex, Lodhi Road, New Delhi.
11. Dr. Sanjeet Kumar, Dy. Commdt. (Med), Presiding Officer, Review Medical Examination Board II, 44th Battalion Seema Surakcha Bal, Narkatiaganj.
12. Dr. Rezaur Rahman Ansari, Dy. Commdt. (Med), Member-I, Review Medical Examination Board II, 44th Battalion Seema Surakcha Bal, Narkatiaganj.
13. Dr. Pathan Sohil Khan, Dy. Commdt. (Med), Member-II, Review Medical Examination Board II, 44th Battalion Seema Surakcha Bal, Narkatiaganj.
14. Dr. R.S. Prasad, Asst. Professor of Orthopaedic and Microsurgery Unit, Patna Medical College, Hospital (P.M.C.H), Patna.
15. Dr. Birbahadur Singh, Asst. Commdt. (Med), Member DME Centre Code-3207, 12th Battalion Seema Surakcha Bal, Kishanganj.
16. Dr. A.K. Pandey, Asst. Commandant (Med), Chairman, DME Centre Code-3207, 12th Battalion Seema Surakcha Bal, Kishanganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sushmita Mishra, Adv.

For the Respondent/s : Mr. Anjani Kumar Sharma, ASG

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 02-08-2017



Heard Ms. Sushmita Mishra learned counsel for the petitioner and Mr. Anjani Kumar Sharan, learned Assistant Solicitor General for the Union of India.

With the consent of the parties the writ petition has been heard with the view to final disposal at the stage of admission itself.

The petitioner applied for the post of Constable (General Duty) in the Central Armed Police Force following an advertisement which was published in the year 2015. The petitioner cleared his written as well as the physical test and was subjected to medical examination on 16.5.2016. The report of the medical examination is present at Annexure-3 and declares him unfit on grounds: (a) Tachycardia (b) B/L Hydrocile. The petitioner filed an application for review and which was allowed requiring his presence on 2.9.2016, vide admit card present at Annexure-6. According to Ms. Mishra learned counsel for the petitioner, on registering his presence for review examination the petitioner was allowed to get himself examined at the Bettiah Sadar Hospital for his ECG test and which was conducted successfully reporting his heart rate at 72/minute vide ECG report dated 3.9.2016 at Annexure-2.

It is the grievance of the petitioner that despite such position, the Review Medical Board held its meeting on 8.9.2016 and while clearing him of the hydrocile ailment, has declared him unfit on



account of 'tachycardia' for heartbeat more than 130/minute. According to Ms. Mishra neither the finding of the Medical Board vide Annexure-3 is based on any ECG test nor did the medical board conduct any such examination even at the stage of review and in the process they have also not paid attention to the report of the Bettiah Sadar Hospital present at Annexure-2 which certifies the heart rate of the petitioner at 72/minute. The submission made by Ms. Mishra is that the respondent authorities be directed to carry out the examination of the petitioner afresh and give their opinion only after subjecting to the petitioner through proper ECG test.

Although counter affidavit has been filed by the Sashastra Seema Bal but no response is given to the issue raised by the petitioner to question the findings of the Medical Board on the review stage in view of the position reflecting from the examination report present at Annexure-2.

Having heard learned counsel for the parties and having perused the records, I am of the opinion that in view of the ECG report present at Annexure 2 the petitioner has made out a case of indulgence, more particularly where the opinion of the Medical Board/ Review Medical Board, is not supported by any ECG or any other pathological test. Accordingly, the writ petition is allowed with the direction to respondent No.9, the Director General of Police,



Sashastra Seema Bal, to constitute a fresh Medical Board who should necessarily have a cardiac physician on the rolls to record their opinion after carrying out an ECG test on the petitioner or any other test, as medically advisable and submit their report, bearing in mind the report given by the Bettiah Sadar Hospital present at Annexure-2

Since the dispute pertains to appointment, let necessary steps be taken by the respondent no. 9 preferably within six weeks from the date of receipt/production of a copy of this order.

Vide order passed on 17.11.2016 the appointments made during the pendency of the writ petition were made subject to the outcome of the proceedings. The interim order passed by a coordinate bench of this court on 17.11.2016 stands hereby confirmed.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	A.F.R
CAV DATE	NA
Uploading Date	11.08.2017
Transmission Date	NA

