

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.59 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 1643 of 2015
Alongwith
Interlocutory Application No. 151 of 2016**

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Bideshi Yadav, S/O Talewar Yadav, resident of Village- Bhandar, Post Office- Sangrampur, P.S.- Chanan, District- Lakhisarai.

.... Petitioner/Appellant

Versus

1. The Union of India, through the Inspector General of Police, C.R.P.F. Patna.
2. The I.G. of Police, C.R.P.F., Madhya Pradesh Sector, Bangrasia, Bhopal (M.P.).
3. The D.I.G., C.R.P.F., Mokama Ghat, Bihar.

.... Respondents/Respondents

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Appearance :

For the Appellant : M/S. Ukmesh Marvind and Satyendra Prasad,
Advocates.
For the Respondents : Mr. S.D SANJAY (ADDL. SOC. GEN.) and
Mr. Rajesh Kumar Verma, Advocate.

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 23-01-2017

Re.: Interlocutory Application No. 151 of 2016.

The application is for condonation of delay of 100 days
in filing of the present Letters Patent Appeal.



For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No. 59 of 2016.

The challenge in the present Letters Patent Appeal is to an order passed by the Learned Single Bench on 10th March, 2015 whereby, the writ application filed by the appellant for quashing of the office order dated 20.12.2014 passed in terms of the direction of this Court on 21.10.2014 in C.W.J.C.No. 15150 of 2014 (Bideshi Yadav Vs. The State of Bihar & Ors.) remained unsuccessful.

The appellant was an applicant for appointment to the post of Constable Pipe Band in the Central Reserve Police Force. The medical test of the appellant was held on 08.02.2014 by the Medical Board but the Medical Board found him unfit due to 'Varicose Vein' with liberty to appear before the review medical board. The appellant got himself medically examined by a private medical practitioner, who reported that there is no evidence of varicose vein in case of appellant and declared him fit. The appellant then appeared before the Review Medical Board on 25.03.2014 and was found medically unfit



by the Review Medical Board.

The appellant thereafter filed C.W.J.C.No. 15150 of 2014 wherein, this Court issued direction that if the appellant files a representation before the D.I.G., C.R.P.F., Mokamaghat with respect to his grievance, the same shall be disposed of within two months. Thereafter the impugned order was passed on 20.12.2014. He challenged it which remained unsuccessful before the Learned Single Judge.

The assertion of the appellant is that on the basis of averments made in the writ application, the learned Single Judge dismissed the writ application holding that this Court does not find any flaw in the report of the Medical Board, which has been reaffirmed by the Review Medical Board. The certificate of the private clinic was found to be not clinching evidence that the appellant did not suffer from disease of Varicose Vein.

In the Letters Patent Appeal preferred against the said order, the appellant has filed a supplementary affidavit on 21.11.2016 wherein, he was referred to medical test conducted for the appointment of Constable Pipe Band, C.R.P.F., Jhapha, Muzaffarpur Zone. The appellant was medically examined on 19.05.2015 and was found unfit on the ground of 'B/L lower zone pithy Haziness seen'.



On the basis of medical fitness certificate obtained by the appellant from the Civil Assistant Surgeon, he was asked to appear before the Review Medical Board and that the Review Medical Board consisting of three doctors declared him fit on 27.06.2015. It is pointed out that two medical tests at different places within one year under the same Organization attributes two different diseases to the appellant. It shows incompetence of the Doctors of CRPF.

In the present Letters Patent Appeal, we have heard learned counsel for the parties and find no merit warranting interference in the order passed by the Learned Single Judge.

The Medical Board initially found the appellant unfit and affirmed the finding that the appellant has 'Varicose Vein'. This Court in the writ jurisdiction does not sit as a Court of appeal to examine as to whether he is suffering from 'Varicose Vein' or not. The fact remains that the medical experts have examined the appellant twice and found him unfit for appointment. Later, on account of different disease in a separate selection process, the Review Medical Board has declared him fit though he could not succeed on account of his merit.

Once, the experts have found the appellant to be unfit in particular selection process, he cannot claim any right of appointment



on the basis of subsequent medical test in another selection process.
The appellant was not found medically fit at the time of process of appointment in question.

This Court will not direct the respondents to appoint the appellant who is found to be medically unfit more so in police service requiring total medical fitness.

We do not find any merit in the Letters Patent Appeal.
Consequently, the Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

U.K./-Amit

AFR/NAFR	AFR
CAV DATE	NA
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Transmission Date	

