

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1966 of 2017

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1. Mahesh Kumar, Son of Ajay Kumar Singh, resident of Village- Maina Chatar,
P.O.- Seway, P.S.- Chandradeep, Block- Islam Nagar Aliganj, District- Jamui.

.... Petitioner/s

Versus

1. The Union of India through the Ministry of Personnel & Public Grievance,
Department of Personnel & Training , Staff Selection Commission, Lodhi Road,
New Delhi.
2. The Regional Director, Staff Selection Commission, Central Region, 21-23,
Lourther Road, Allahabad.
3. The Deputy Inspector General, SHQ, SSB, Modern Agro Agencies Building,
Chakkar Maidan, Muzaaffarpur (Bihar), District- Muzaaffarpur- PIN- 842001.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Adv.

For the Respondent/s : Mr. Manoj Kumar Singh, C.G.C

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-12-2017

Heard Mr. Arun Kumar, learned counsel for the petitioner and
Mr. Manoj Kumar Singh learned Central Government Counsel.

The petitioner seeks a mandamus commanding the respondents
to constitute a Medical Board for review of the medical status of the
petitioner.

Having heard learned counsel for the parties, I am of the
opinion that this writ petition is bound to fail on more than one
grounds.

The matter relates to a selection process initiated in the year
2011 vide advertisement published in Employment News on



05.02.2011 for appointment of Constable (GD) under the Central Armed Police Force. According to the admission of the petitioner, he appeared in the selection process and qualified in so far as the written test as well as physical eligibility is concerned. It is his admission that on 03.08.2011 he was subjected to medical test and was disqualified on medical unfitness for sugar found in urine. According to the petitioner, he preferred a statutory appeal for a review medical examination on 09.08.2011 which appeal was sent through registered post as per Annexure-4. The petitioner has thereafter gone silent for he took no steps either to find out the outcome of his appeal nor he chose to move before any adjudicatory forum. It is after a lapse of almost 6 years that the present writ petition is filed. Except for a bald statement that the petitioner was trying to pursue his appeal for holding of Review Medical Examination, there is nothing to justify the delay.

Despite the delay staring at the face of the petitioner, this Court as an extra ordinary indulgence required an answer on the outcome of the appeal and when it is informed at paragraph 11 of the counter affidavit that no such appeal was received in the office of the respondents. Even if the petitioner had a case for review he has failed himself on account of gross laches which stares him on face as he has not chosen to bona-fidely pursue his grievance. Even if the petitioner



bona fide believes that the appeal sent by registered post should have been received by the respondents, there is absolutely no explanation as to why the petitioner never chose to find out the outcome of the appeal or to move the appropriate forum for an order in this regard which he has done after a lapse of 7 years.

Although Mr. Arun Kumar relies upon a Supreme Court judgment since reported in **(2010) 9 SCC 157 (Greater Mohali Area Development Authority Versus Manju Jain)** to justify the stand of the petitioner regarding his belief that the appeal sent by registered post, presumption lies in favour of the petitioner that it must have reached the respondents but considering the stand taken by the respondents at paragraph 12 where they deny the receipt thereof, the onus shifts on the petitioner to prove otherwise which onus is not discharged.

For the reasons discussed, no cause for indulgence is made out to the prayer made.

The writ petition is dismissed.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.12.2017
Transmission Date	NA

