

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1737-2016 (O&M)

Date of Decision: January 17, 2017

Hans Raj

.....Appellant

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Mukesh Yadav, Advocate
for the appellant.

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SURYA KANT, J.

The appellant was recruited as a Constable in Border Security Force on 26.11.2009. He joined the Base Training Center, Kharkan Camp on 21.12.2009. It was noticed on 31.12.2009 that the appellant had suffered an injury on his right foot due to which he remained hospitalized at Base Training Center from 25.01.2010 to 08.05.2010.

[2] The appellant was referred to Medical Board at Composite Hospital, BSF Jalandhar, where he was declared unfit to undergo 'Basic Recruitment Training'. It appears that the appellant thereafter remained hospitalized in PGIMER Chandigarh from 03.01.2012 to 06.02.2012 for treatment.

[3] Though PGIMER Chandigarh as well as the Government Medical College, Amritsar in their respective opinions declared the appellant medically fit to resume duty but the authorities did not accept those reports.

A Review Medical Board was constituted at the Composite Hospital, BSF Jalandhar and as per its opinion dated 02.08.2012, the appellant could not perform two activities of 'long jump' and 'high jump' out of five physical activity tests. The Review Medical Board thus opined that the appellant was unfit to resume and complete the training. Resultantly, the appellant's services were dispensed with on 26.06.2013.

[4] The appellant challenged the above-stated order but his writ petition has been dismissed by learned Single Judge, giving rise to this intra-Court appeal.

[5] There can be no doubt that the parameters evolved by civil hospitals for assessing the medical fitness of a person to determine whether he can perform duty, as compared to those followed by Army/Paramilitary hospitals, are not so vigorous. In the absence of any allegation of animus, bias or prejudice, we see no reason to discard the opinion of the Medical Board or Review Medical Board of BSF Hospital, according to which the appellant could not complete the test events and was declared unfit to complete the training. Further, one of the cause of the injury suffered by the appellant and as opined by the Doctors is of pre-recruitment stage. In such a situation, we do not find any ground to interfere with the order under appeal.

Dismissed.

(SURYA KANT)
JUDGE

January 17, 2017

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(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No