

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.605 of 2016

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1. Amit Kumar Son of Vijay Kumar Das Resident of Village-Bishanpur, Devi
Asthan, Ward No.-42, P.S.-Town, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Home (Special) Department Govt. of Bihar, Patna.
3. The Director General Cum-Commandant General, Bihar Home-Guard, Patna
4. The District Magistrate, Begusarai.
5. The District Commandant, Home-Guard, Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Adv.

For the Respondent/s : Mr. Santosh Kumar Jha, G.P.3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-04-2018

The petitioner was an applicant for appointment as a Home Guard against the post so advertised by the respondents, for the district of Begusarai. The Medical Board so constituted for the selection, declared the petitioner unfit on grounds of 'Knock Knee'. The petitioner and others represented for a review medical board which was rejected and even though the petitioner got himself examined by a Board consisting of the three Civil Assistant Surgeon at Begusarai who cleared the petitioner of such unfitness, a copy of which has been enclosed at Annexure 5 yet it was not given a consideration by the respondents rather his unfitness was approved.



Feeling aggrieved he is before this Court.

A counter affidavit is filed and the statement made in paragraph 4 would provide an answer to the issues raised. The respondents do admit that of the posts advertised through Advertisement No.2 of 2011, 153 posts of Home Guard (Rural) and 17 for Urban was declared for district of Begusarai. It is their stand that during the selection process, the Medical Board declared 107 candidates unfit and the petitioner was one of them. It is admitted that 59 candidates submitted their objections to the findings of the Medical Board and prayed for review medical test and the petitioner was one of them. It is next mentioned that a meeting was held by the District Level Appointment Committee on 5.8.2015 to look into the objections so raised for holding of review medical test but the representations were rejected and the representation of the petitioner was one of them. Copy of the proceeding of the Committee chaired by the District Magistrate, Begusarai, dated 5.8.2015 is enclosed at Annexure B to the counter affidavit.

If the matter would have rested at this stage there would be no problem but the petitioner complains that even though the prayer of the petitioner and others for review medical test was rejected despite the clearance given by a Board of 3 Surgeons at Sadar Hospital,



Begusarai as to the unfitness on 'Knock Knee' by the Medical Board at Annexure-5 but the District Magistrate, Begusarai rather arbitrarily and in an act of discrimination directed for a Review Medical board for 9 of the candidates as manifest from the order of the Commandant, respondent no.5, bearing No. 1253 dated 01.12.2015 at Annexure 7 but the claim of others was ignored. A statement to such effect is made at paragraph 14 of the writ petition but the Senior Deputy Collector answering on behalf of the respondents including the District Magistrate, Begusarai and the Commandant, Home Guards, has refused to give answer to the statement of the petitioner paragraph 14 by hiding behind a 'matter of record' statement made at paragraph 15 of the counter affidavit which by itself confirms discrimination. On the other hand, a cursory glance of the Bihar Home Guard Rules, 1953 would manifest that 'Knock Knee' has not been categorized as an issue of disqualification. The petitioner thus has been illegally disqualified on fitness.

For the discussions above, the respondent No. 4 and 5 are directed to consider the claim of the petitioner as well as all others similarly placed, who had objected to the finding of the Medical Board and had prayed for review thereof which is admitted by the respondents at paragraph 4 of their counter affidavit and accord them



the same treatment as given to the 9 applicants through the order dated 1.12.2015 of the Commandant, Bihar Home Guard, Begusarai which confirms the constitution of the Appellate Board under the orders of the District Magistrate, Begusarai, which exercise be completed within 6 weeks of receipt/production of a copy of the order before the District Magistrate, Begusarai.

The writ petition is allowed.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.05.2018
Transmission Date	NA

