

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19021 of 2016

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Vinod Kumar Malakar, S/o Shiv Kumar Malakar, resident of Thana Road Warisaliganj, P.O. + P.S. Warisaliganj, District - Nawada, Working as Constable C.R.P.F., Headquater 22 Battalion Hazaribag, Group Kendra - Mokama Ghat, Sector - Bihar Petitioner

Versus

1. The Union of India, through the Secretary, Ministry of Home Affair, Govt. of India, New Delhi
 2. The Secretary, Ministry of Home Affair, Govt. of India, New Delhi
 3. The D.I.G., Central (R.E.C.T.T) D.T.E.
 4. The D.I.G., C.C., C.R.P.F., Hyderabad, Nodal Officer for Selection of HC (Min) for Year 2015 - 16
 5. The Commanding officer, 22 Battalion, Hazaribag, group Kendra, Mokama Ghat, Sector, Bihar Respondents
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Appearance :

For the Petitioner/s : Mr. Bankey Bihari Singh, Adv.
For the Respondent/s : Mr. Awadhesh Kumar Pandey, SCGC
Mr. Ravinder Kumar Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 22-02-2018

Heard Mr. Bankey Bihari Singh, learned counsel for the petitioner and Mr. Awadhesh Kumar Pandey, learned Senior Panel Counsel appearing for the Union of India alongwith Mr. R.K.Sharma, CGC.

The petitioner while questioning the report of the medical test (eye examination) dated 23.8.2016, impugned at Annexure 8, which renders the petitioner unfit for appointment to the post of Head Constable (Ministerial) prays for a direction to the respondents for such appointment.

The facts briefly stated is that the petitioner, an in-service candidate, applied for appointment for the post in question but was declared unfit on two grounds:



(a) Low visual standard; and

(b) White Patches over the Gland/ shetled penis.

The order declaring him unfit by the Medical Officer is impugned at Annexure 4. The petitioner after getting examined by the doctors at Patna Medical College and Hospital preferred statutory appeal vide Annexure 5 enclosing the fitness certificate so issued by the hospital. The Review Medical Board vide its decision impugned at Annexure 8 even while clearing the petitioner on the skin objection yet has declared him unfit on visual standard, inter alia, on grounds that the petitioner has got lens fitted in both eyes to improve vision.

Although an admission to such effect is also present at Annexure 8 but since it was argued by Mr. Singh, learned counsel appearing for the petitioner, that the petitioner was forced to give such admission of undergoing a Lasik surgery to improve vision that this Court giving him a benefit of such objection allowed a second examination by the competent eye surgeon where the petitioner was presently posted. Since it was informed that the petitioner was presently posted in a unit at Assam that this Court vide order passed on 21.12.2017 required the learned counsel for the respondents to inform whether there was any military hospital around the unit where the petitioner was posted having eye specialists for second examination.

On information furnished by the learned counsel appearing



for the respondents that there is a composite hospital existing in Guwahati where two eye specialist, namely, Dr. Jagdish Joshi and Dr. Nilay Jain are present that the respondents were directed to get the petitioner examined by either of the eye specialist for recording their opinion as to whether the petitioner had undergone Lasik surgery for the entire claim of the petitioner rested on this issue. It is thereafter that a second supplementary counter affidavit has been filed on behalf of the respondents enclosing the medical opinion of Dr. Nilay Jain, the eye specialist, at Annexure D and which confirms that the petitioner has undergone Lasik surgery. The confirmation of the fact that the petitioner has undergone a Lasik surgery to improve his vision leaves no room for any further discussion and is sufficient for dismissal of this writ petition not only on grounds that the opinion of the Review Medical Board at Annexure 8 stands confirmed but also on grounds that an attempt was made by the petitioner to mislead this Court while contesting his admission at Annexure 8.

The writ petition is dismissed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.03.2018
Transmission Date	NA

