

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14749 of 2018

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Dharmendra Kumar Singh, Son of Sri Gaya Prasad Singh, Resident of Village- Barai Khurd, Post- Bada Gaon, Block- Sahawal and P.S.- Raunahi, District- Faizabad, at present posted as Inspector having UIN 11171158 at 48 Battalion, Jay Nagar, P.S.- Jay Nagar, District- Madhubani.

... .. Petitioner/s

Versus

1. The Union Of India and Ors
2. Director General, S.S.B. East Block, V.R.K. Puram, New Delhi.
3. Inspector General, Frontiers Headquarters, S.S.B. Ashiyana, Digha Road, District – Patna.
4. The Commandant, S.S.B. 48th Battalion, S.S.B. Jay Nagar, Madhubani.
5. The Deputy Commandant, 48 Battalion, S.S.B. Jay Nagar, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nawal Kishore Singh Mr. Upendra Mishra Mr. Sanjeeb Kumar Sanju
For the Respondent/s	:	Mr.S.D Sanjay Addl. Soc. Gen. Ms. S. Kumari Singh, SGC

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 07-05-2019

I. A. No. 2 of 2019

1. This is an application on behalf of Union of India for deleting the designation of "Secretary, Department of Home Affairs, Central Secretariat, New Delhi" from array of parties.

2. The aforesaid prayer is not objected to by the learned counsel for the petitioner for the simple reason that the authority which ought to have been impleaded is "Director



General, SSB", who has already been made a party respondent (Respondent No. 2) in the writ petition.

3. The Secretary, Department of Home Affairs, Central Secretariat, New Delhi though is a titular head, nonetheless, no decision has to be effected from his office.

4. Considering the aforementioned aspect and the prayer made in the I. A. No. 2 of 2019, the Interlocutory Application is allowed.

5. The designation "*Secretary, Department of Home Affairs, Central Secretariat, New Delhi*" is deleted from the array of parties and respondent no. 1 would be read as "*Union of India through Director General, S.S.B., East Block, V, R. K. Puram, New Delhi*".

6. The I. A. No. 2 of 2019 is disposed off accordingly.

C.W.J.C. No. 14749 of 2018

7. The petitioner has been made to superannuate from 1st of May, 2019 for his having been found out of shape, i.e., shape-V. From the records, it appears that about five years ago, the petitioner was subjected to medical examination and was found to be medically unfit to be retained in service. A



direction, however, was issued by the superior authorities to provide a further/re-medical check-up to the petitioner but the same could not be done. Much later, the petitioner was subjected to another test, the report of which indicated that he did show the signs of improvement but the traces of alcoholism were still there and it could not be said with certainty that the petitioner had stopped consuming alcohol altogether.

8. In any view of the matter, since the petitioner was not subjected to review medical test, as directed by the superior authorities, and work was continued to be taken from him and because of such order in the past, the petitioner had missed out all promotional opportunities as well, a prayer has been made by the petitioner to accord a re-medical examination of the petitioner, whereafter the decision of removing him from service be also reviewed.

9. Mr. S. D. Sanjay, learned Additional Solicitor General, on appraisal of the facts of this case, has submitted that there would be no difficulty in allowing such prayer of the petitioner; more so, when he has served the force for the last



five years and that there could be some flaw in the medical assessment of the petitioner.

10. It may be noted that the petitioner for all the years, after being declared unfit medically, had served the force in the State of Jammu and Kashmir, a difficult posting for any member of force to discharge.

11. In the peculiar facts and circumstances of this case, this Court deems it appropriate to direct the Inspector General, Frontiers Headquarters, S.S.B. Ashiyana, Digha Road, District – Patna (Respondent No. 3) to afford to the petitioner a re-medical check-up on the petitioner producing a copy of this order before him within a period of four weeks from today. The medical board shall be constituted within a period of three weeks from the date of the receipt of this order, which shall submit its report. The report of the Medical Board shall be forwarded to the Director General, S.S.B., East Block, V, R. K. Puram, New Delhi by the Inspector General, Frontiers Headquarters, S.S.B. Ashiyana, Digha Road, District – Patna (Respondent No. 3). If the medical report is found favourable, the petitioner shall make a representation before the Director,



SSB, East Block, V, R. K. Puram, New Delhi (Respondent No. 1) for reinstating the petitioner in service till the actual age of his superannuation. On such representation, the Director, SSB, East Block, V, R. K. Puram, New Delhi (Respondent No. 1) shall pass necessary order in accordance with law within a further period of four weeks.

12. With the aforesaid observation / direction, this petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	09.05.2019
Transmission Date	

