

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8403 of 2015

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Pappu Kumar Yadav Son of Sri Surendra Ray a resident of Village-
Narayanpur, P.s Garkha, District Chaprasaran.

... .. Petitioner

Versus

1. The Union Of India
2. The Director General , CRPF, New Delhi.
3. Inspector General, Bihar sector , CRPF, Rajeev Nagar Aashiyana Digha
Road Patna.
4. The DIGP Group Centre CRPF Muzaffarpur.
5. The Commandant ,CRPF Camp, Jhaphan, Muzaffarpur.
6. The Deputy Commandant Administrative CRPF, Camp, Jhaphan,
Muzaffarpur.
7. Presiding Officer, Recruitment Board, GC CRPF , Muzaffarpur Centre .

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Rajni Kant Jha
For the Respondent/s : Mr. Akshay Bahadur Mathur, CGC

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 07-08-2019 Heard learned Counsel for the petitioner and the

learned Counsel for the respondent Union of India.

The petitioner was working as a Constable in the
respondent Force since 2008. In 2011 he represented his
battalion in inter battalion competition of Kabaddi where he
sustained injury in his knee which necessitated surgical
intervention. The court of enquiry declared the injury to be
arising out and in the course of duty.

The issue in the instant proceeding arises out of the
petitioner's application for appointment on the post of Head



Constable (Ministerial) after having sustained the said injury. The petitioner has participated in the process as an open market candidate. The petitioner was found unfit in the process of selection for the post of Head Constable.

Counsel for the petitioner submits that Annexure 12 which is Annual Medical Check Up and Categorisation of the petitioner has placed him in SHAPE I. The same is dated 4.12.2014. In the circumstances, he submits that the result of the review medical examination dated 17.12.2014 finding the petitioner not fit for selection as Head Constable is unsustainable. The same authority which found him in SHAPE I category has excluded him in the process of selection for Head Constable on account of his injury suffered in the left knee in course of his duty.

Heard learned Counsel for Union of India.

It is submitted, placing reliance on averments made in para 17 of the counter affidavit, that internal medical board had found the petitioner to be in SHAPE 1 in view of its' consideration being based on letter dated 2.8.2011 issued by Group Commandant having regard to the injury sustained in course of his duty. Even said opinion was subjected to observation for 12 weeks. Consideration for holding the



petitioner to be SHAPE I with a rider that he be put under observation for 12 weeks was in the background of evaluation “in service” base on consideration of injury being sustained in course of duty.

Counsel for Union of India rightly submits that such consideration cannot be granted to the petitioner while evaluating his candidature for selection afresh in the open market category for the higher post of Head Constable. The basis of consideration before the two medical boards was thus different. The circumstances and objectives were different and therefore it is not a case where the petitioner can claim that both boards should arrive at the same conclusion as the terms for the board on both occasions was different. The petitioner's evaluation in different circumstances are for different purpose subject to observation for 12 weeks dated 4.12.2014 cannot form basis or allow the petitioner any benefit on account of his consideration for selection afresh in open market advertisement for higher post of Head Constable. The claim of petitioner based on Annexure 12 is untenable.

The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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