

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19122 of 2019

1. Amit Kumar S/o Shailesh Singh Village-Ahiyapur P.S. Neura, District-Patna.
2. Dinesh Kumar Rai S/o Ram Nath Rai, Resident of Ward No.-6, D.M. Road, Near-Mahant Jiki Mathiya, P.S.-Jagdishpur, District-Bhojpur.
3. Ashok Kumar Yadav S/o Digri Ram Yadav , Resident of Village-Post-Dumri (Near D.K. College), P.S.-Simri, District-Buxar.
4. Abhishek KUMar S/o Chitranjan Singh, Resident of Lekha Nagar, Danapur, District-Patna.
5. Rajeev Kumar Singh S/o Bhrigunath Pratap Singh Resident of Village and Post-Berui, P.S.-Baniapur, District-Saran.
6. Deepak Kumar, S/o Harkishun Prasad Yadav Resident of Village-Mahadeo Nagar, P.S.-Sheikhpura, District-Sheikhpura.
7. Chandra Kant, S/o Kameshwar Prasad Singh R/o Village-Majhwalia, P.S.-Majlishpur, District-Chhapra, Saran.
8. Nityanand Kumar, S/o Arjun Prasad, Resident of Village-Devbigha, P.O.-Dosut, P.S.-Wena, District-Nalanda.
9. Md. Ravshan, S/o Md. Razak, Resident of Village-Kazimahammadpur, P.O.-Kazimahammadpur, P.S.-Paroo, District-Muzaffarpur.
10. Jitendra Kumar S/o Janki Das, Resident of Kharanja Road, Near Shubham Market, Saguna More, Danapur, District-Patan.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Railway Board, Rail Bhanwan, New Delhi 110001.
2. The Secretary, Railway Board, Rail Bhawan, New Delhi-110001.
3. The Executive Director (P.G.) Ministry of Railways (Railway Board), Room No. 467, Rail Bhawan, Railway Board, New Delhi-110001.
4. The Chairman, Railway Recruitment Board, Mahendrughat, Patna-800004.
5. The General Manager, East Central Railway, Hajipur, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Pandey
For the Respondent/s	:	Mr. Dr. Anand Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)



Date : 17-09-2019

Heard the learned counsel for the parties.

The writ petitioners are Ex-servicemen who had applied for being recruited against an advertisement bearing Advertisement No. 2 of 2018 for the post of Group Level-1 of the 7th CPC Matrix. They could not pass the physical efficiency test (PET) as was laid down in the online advertisement in Clause 14.2, providing different level, of physical test for male and female candidates. No relaxation appears to have been provided in the aforesaid advertisement with respect to any other category of aspirants / applicants except those with physical disability. The petitioners were found to be Ex-servicemen who applied for being considered for appointment but in the first round of selection, they could not pass the physical efficiency test (PET).

The contention of the writ petitioners before the Tribunal was that in view of Clause 10.5 which deals with special conditions for Ex-servicemen, the medical standard of an Ex-serviceman was required to be considered in terms of para 534 of the Indian Railway Medical Manual (IRMM)



Volumes 1. The relevant paragraph 534 of the aforesaid Manual has been noted at page 100 of the brief which speaks about the medical examination of Ex-servicemen, who have been reappointed in Railways after rendering services in Armed Forces and which deals with General Physical Examination as well as the visual test. According the aforesaid paragraph of the Manual, with respect to the General Physical Examination, it has been clarified that same standard would apply in cases of Ex-servicemen which is applicable to new recruits. For visual test, acuity of vision according to the table has been set forth.

The writ petitioners were never put to any medical test with respect to their vision. They have failed in the physical efficiency test (PET) in which they were required to run / walk with some weight for some distance. Since there is no relaxation provided for, in cases of Ex-servicemen, in the online advertisement, any claim of the petitioners for being treated differently from other candidates was not accepted by the Tribunal. The Tribunal has rightly observed that the recruiting agency cannot be compelled to provide a different standard to Ex-servicemen which is not there in the terms of



advertisement against which the petitioners had applied and had participated.

We do not find any fault in the order passed by the Tribunal.

This writ petition, being devoid of merits, is dismissed.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

skm/-

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Uploading Date	17.09.2019
Transmission Date	

