

23.12.2020

Ct. No. 24

Item No. 48

pk.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA No. 10503 of 2020

Gautam Kumar Yadav

-vs-

Union of India & Ors.

Mr. Palash Mukherjee for the petitioner

Mr. N. Bhattacharjee for the UOI

The petitioner appeared for recruitment of Constable (GD) Examination 2018 of the CAPF. He was declared unfit on the ground of (1) Overweight and (2) Hydrocele. The petitioner thereafter obtained a certificate from the State Government Hospital wherein the Doctor opined that the candidate is examined in the General Surgery Department of the Hospital and after USG it was detected that there is a minimal hydrocele for which no surgical intervention is needed. The Doctor declared him medically fit for the post.

With the aforesaid certificate issued by the Medical College & Hospital, the petitioner applied before the respondent authority for review medical examination. The Review Medical Board was of the opinion that the petitioner was unfit on account of Hydrocele left side.

The petitioner submits that since there is conflicting opinion of the Doctors of CAPF and the State

Government Hospital, his case is liable to be sent to the third party for medical check up.

The prayer of the petitioner has been opposed by the learned advocate representing the respondents.

It has been submitted that the petitioner while appearing in the examination was well aware that there is hardly any scope of appeal against the order passed by the Review Medical Board. After accepting the aforesaid the petitioner now cannot turn up and pray for rechecking his physical condition.

It has been submitted that the parameters of the candidates to be recruited in the CAPF is different from that of the civilians. The general ground for rejection as mentioned in the guidelines for recruitment is that large hydrocele, even if curable by operation and small hydrocele, if operated upon, and no bad scar if left after operation, may be accepted. The respondent submits that as the petitioner is suffering from hydrocele and he is unfit for appointment.

I have heard the submissions made on behalf of both the parties and have perused the medical certificate issued by the Doctors of CAPF and that of the Calcutta Medical College. It appears that the Doctors were *ad idem* on the fact that the petitioner is suffering from Hydrocele. Though the Doctor of the Medical College & Hospital was of the opinion that the Hydrocele was so minimal for which no surgical intervention is needed the

Doctor of CAPF has certified that the petitioner was unfit for duty. It is not open for the court to decide or pass any opinion on the advice given by the doctors.

The petitioner intends to be recruited in CAPF and he is bound to accept the report given by the Doctors conducting the medical examination. All opportunities were given to the petitioner to prove that he was fit for recruitment, which the petitioner failed.

I do not think that this is a fit case for remand before the medical expert for re-examination of the petitioner. The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)