

**15.03.2021**  
Item No. 29  
Ct. No. 04  
PG

**M.A.T. 104 of 2021**  
**With**  
**I.A. no. CAN 1/2021**

**Gautam Kumar Yadav**  
**Vs.**  
**The Union of India & Ors.**

Mr. Palash Mukherjee  
Ms. Sucheta Mitra.....for appellant

Mr. Nilanjan Bhattacharjee..for Union of India

Parties are present as they were on 24<sup>th</sup>  
February, 2021, when, inter alia, we had said as  
follows:

*“This is an intra-court appeal. We find all relevant papers have been annexed to the stay application except the writ petition itself. Parties agree for hearing of the appeal on papers already disclosed and the writ petition being handed up, themselves having copies of it.”*

Mr. Mukherjee, learned advocate appears on behalf of appellant, who was unsuccessful writ petitioner. He submits, the facts are that his client has not been recruited by Central Armed Police Forces (CAPF) on there being detected a medical condition he has. Review medical board confirmed existence of the condition, purportedly disqualifying

him. He obtained certificates from Medical College and Hospital, Kolkata that the condition is minimal, for which no surgical intervention is needed. Other certificates say the condition is within limits and appellant is clinically fit for joining in surgical point of view. He refers to minor acceptable defects given under uniform guidelines for Medical Examination Test (MET) for recruitment in CAPFs, NSG & AR. Clause (s) under the heading says as follows:

*“(s) Any other slight defects which in the opinion of the Recruiting Medical Officer will not interfere with efficiency of candidate as a soldier in future.”*

Mr. Bhattacharjee, learned advocate appearing on behalf of Union of India refers to notice dated 21<sup>st</sup> July, 2018 of Staff Selection Commission. He relies on general grounds for rejection during medical examination given under clause C in the notice. Sub-clause (w) says as follows:

*“w. There should be no hydrocele, varicocele or piles.”*

He submits, appellant is not fit for being recruited.

There is no dispute that appellant has the condition. The sub-clause under general grounds for rejection during medical examination clearly require absence of the condition. As such, the residuary clause relied on by Mr. Mukherjee cannot come into operation on said specific requirement given in the

notice. We also notice another clause in the notice, which we reproduce below:

*“D. The candidates must be in good mental and physical health for duties in all places including in high altitude and be fit to serve in border areas with extreme climatic conditions and must be free from any defect likely to interfere with efficient performance of the duties. Above instructions are not exhaustive. Remaining instructions will apply as issued by Government of India from time to time.”*

There is one certificate, of those, relied upon by appellant. It is the certificate at page 133 issued by R.M.O., Department of Surgery, Medical College and Hospital, Kolkata saying patient is clinically fit for joining in surgical point of view. We have perused that and other medical certificates annexed, obtained from Government hospitals. We feel that certifying doctors could and did opine on existence of the condition, though minimal. The opinion regarding fitness for joining on detected existence is transgression into territory of the recruiting authority. The recruitment notice says it all.

For reasons aforesaid, there is no merit in the appeal. Impugned order is confirmed. The appeal is dismissed. Connected application (I.A. no. CAN 1/2021) is disposed of accordingly.

**(Arindam Sinha, J.)**

**(Suvra Ghosh, J.)**