

10.02.2021
Ct. No.13
Sl. No.31
akd

W.P.A. 2577 of 2021 [via video conference]

[Amit Kumar Shaw -Vs- Union of India & Ors.]

Mr. Saket Sharma
... .. for the petitioner

Mr. Nilanjan Bhattacharjee
Mr. Rajendra Tewari
... for the UOI

The petitioner participated in the process of recruitment to the post of Constable (GD) in the CAPF conducted for the year 2018. After qualifying in all other stages of recruitment, the petitioner was found medically unfit on account of varicose veins and Deviated Nasal Spectrum (DNS). The petitioner sought review of the decision of the first medical officer based on the report of the ENT Surgeon at district hospital at Hooghly. The review medical board found that the petitioner did not have varicose veins but was grossly unfit on account of DNS.

Learned counsel for the petitioner would refer to a letter dated January 14, 2021 stated to have been issued by the DIG (Recruitment) to the DG, BSF asking him to ascertain the factual position. There is being no reply to this and the petitioner is also aggrieved by the same.

Learned counsel for the petitioner relies on a judgement of the Hon'ble Supreme Court in the case of **NTPC Kahalagaon & Ors. vs. Nakul Das & Ors.** reported in **(2014) 9 SCC 385** wherein the Apex Court ordered the NTPC to constitute another medical board for reexamination of the respondents therein. It appears from the facts of the said decision that the medical

board of the employer NTPC had found the respondents therein to be colour blind whereas the same hospital and doctors had found the same respondents without any colour blindness in a different examination. It is essentially in that context that the Hon'ble Supreme Court considering the subsequent events that took place after the SLP was filed directed constitution of a fresh medical board.

The said decision apart from being distinguishable on facts must be understood to be a decision under Article 142 of the Constitution of India.

This Court notes that the first medical report as well as the review medical board have consistently opined that the petitioner had DNS. Admittedly, the medical guidelines for recruitment, inter alia, contained in the DME guidelines under 3(i)(c) lay down that gross DNS is a medical disability for the post of Constable (GD)/rifleman in any of the armed forces for which recruitment was being made.

This Court finds no infirmity in the procedure adopted by the CAPF. No relief can, therefore, be granted to the petitioner.

The Court, however, records appreciation for the manner in which the learned counsel for the petitioner has tried to canvass his client's case.

The writ petition is accordingly, dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rajasekhar Mantha, J.)