

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.668 of 2019
In
Civil Writ Jurisdiction Case No.3548 of 2004

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Ravi Shankar Kumar Son of Ram Janama Resident of Village and P.O.-
Hasanpur, P.S.- Kaler, District- Arwal.

... .. Appellant

Versus

1. The Union of India through D.G.P. CISF Directorate, General, Lodhi Road New Delhi- 110003.
2. The Director General of Police C.I.S.F., Directorate General (Under Ministry of Home Affairs Govt. of India) Lodhi Road New Delhi -110003.
3. The D.I.G. C.I.S.F./Ez HQ Patliputra- Boring Road, Patna- 800013.
4. The C.M.O.- CISF 4th Reserve Battalion Ranchi.
5. The State of Bihar (Perform Respondent) through Advocate General Bihar, Patna.

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr.Maya Shankar Mishra, Advocate
For UOI	:	Mr.Praveen Kumar Sinha, Sr. Panel Counsel

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 22-08-2022

The present appeal is directed against the order dated 31.8.2017 passed by the learned Single Judge in C.W.J.C. No. 3548 of 2014 by which the writ petition filed by the appellant-petitioner was dismissed.

2. The matrix of facts giving rise to the present appeal is/are as follows:-



(i) the appellant-petitioner applied for the post of Constable in the Central Industrial Security Force (henceforth for short 'the CISF') and was declared qualified. He was later medically examined and vide letter no. 2413018 of 2001 dated 24.3.2003 he was declared temporarily unfit;

(ii) he was again subjected to medical examination and it was recorded by the Chief Medical Officer, 'the CISF', Ranchi on 19.4.2013 that he is (medically unfit for the post of Constable in 'the CISF');

(iii) aggrieved, the appellant-petitioner preferred representation before the DGP, CISF, New Delhi which was rejected vide letter No. 154 dated 05.02.2004 stating therein that as the appellant-petitioner has been found medically unfit, his candidature has already been rejected by the DIG, CISF, Patna, his appointment on the post of Constable is not possible (Annexure-5, to the writ petition);

(iv) again aggrieved by the said decision of the respondent, the petitioner preferred C.W.J.C. No. 3548 of 2004 before the Patna High Court;

(v) the matter was taken up by the Court on 12.4.2007 and as no one appeared on behalf of the petitioner, the writ petition was dismissed for non-prosecution. The petitioner



preferred restoration petition vide MJC No. 1989 of 2010 and accordingly, the writ petition was restored on 26.9.2012;

(vi) the matter was again taken up on 13.12.2012 but once again no one appeared on behalf of the petitioner and the Hon'ble Single Judge passed the following order:-

“Learned counsel for the respondent is present.

When this case was called out for hearing in admission matter on 12.12.2012 no one appeared on behalf of the petitioner although the case is more than eight years old. However, taking a lenient view the case was adjourned as a last chance.

Today also when the case is called out for hearing no one appears on behalf of the petitioner to press this writ petition.

Accordingly, this writ petition is dismissed for non-prosecution.

(vii) the petitioner ones again preferred MJC No. 754 of 2013 and again the case was restored to its original file on 27.6.2014. However, the story continued and on the last occasion, on 31.8.2017 when the writ petition was taken up for the third time, no one appeared on behalf of the appellant-petitioner. The Hon'ble Single Judge, thereafter, after recording



the non appearance of the counsel for the appellant-petitioner passed the following order:-

“The present writ petition has been filed for quashing the order dated 5th February, 2004 passed by Assistant Inspector General/Recruitment/C.I.S.F., Lodhi Road, New Delhi-110 003 in his letter no. E. 32023/8/03/Recruitment/154 by which he has refused to appoint the petitioner to the post of Constable CISF.

None appears on behalf of the petitioner despite repeated calls. On the last occasion on 29.08.2017 as well, the petitioner was not represented. This Court takes note that on earlier occasion as well, the writ petition had been dismissed for default by order dated 24.07.2014 but was restored subsequently by order dated 27.07.2017 passed in MJC No. 1879 of 2015.

Learned counsel for the respondents submits that no fault can be found with the impugned order dated 05.02.2004 and the same has been passed according to law. The petitioner was found to be suffering from some



problem in the left ear as audiometric report (audiogram) revealed about a distinct bone air gap in the graph of his left ear from 125 Hertz to 2000 Hertz, suggesting conductive type defect. The petitioner was therefore found medically unfit for appointment in the CISF. Despite the petitioner being informed about the existing provision for review by a Medical Board, the medical fitness certificate was not produced and hence, the petitioner could not be appointed.

Having regard to the stand of the respondents in the counter affidavit, this Court is not inclined to interfere in the matter.

The writ petition stands dismissed.”

(viii) Aggrieved, the petitioner preferred this present appeal;

Heard learned counsel for the parties.

(3) The case of the appellant-petitioner relates to the year 2004 and the pursuant to the medical examination, he was found medically unfit and as such his claims for appointment as Constable in ‘the CISF’ was rejected. The appellant-petitioner preferred C.W.J.C. No. 3548 of 2014 which



was dismissed in 2007 for non prosecution on 12.4.2007, restored on 26.9.2012, again the same was dismissed for non prosecution on 13.12.2012, restored on 27.6.2014, and in the process and due to complete lapses on the part of the petitioner, 10 years elapsed.

(4) Even on 31.8.2017, when the writ petition was taken up, no one appeared on behalf of the petitioner. Thereafter, the learned Single Judge after recording the said facts held that once the petitioner was found medically unfit for appointment in 'the CISF' and he having been informed about the extension of provision reviewed by a Medical Board, the medical fitness certificate never produced, the petitioner could not be appointed and as such the writ petition was dismissed.

(5) The order was passed on 31.8.2017. The appeal came to be filed on 17.5.2019, i.e. after delay of one year and 225 days, the limitation having expired on 3.10.2017.

(6) We have gone through the entire facts of the case. At the time of filing of the present appeal, his age was 37 years in 2019 which means he is 40 years old now. The matter relates to the year 2003. Almost two decades have passed.

(7) Taking into account all the aforesaid facts including the fact that the appellant-petitioner was initially



found medically unfit and he failed to get himself reviewed by a Medical Board and/or submit medical fitness certificate as also the grave lapses on his part in not pursuing the case diligently before the writ court as a result thereof writ petition filed in the year 2004 was finally dismissed in the year 2017 whereafter once again he took 490 days after expiration of limitation to file appeal and lastly his age is 40 years now, this Court does not find any merit warranting interference in the order of the writ court.

(8) The appeal as such fails and is accordingly dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
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