

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.479 of 2019

In

Civil Writ Jurisdiction Case No.18222 of 2016

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Satyadev Kumar Paswan S/o Badari Narayan Paswan R/o village - Kharauni,
P.O.- Bilauna, P.S.- Bihiya, Distt.- Bhojpur

... .. Appellant/s

Versus

1. Union of India through the Director General, CRPF, CGO Complex, Lodhi Road, New Delhi
2. The Director General CRPF, CGO Complex, Lodhi Road, New Delhi- B110003
3. The D.I.G. Recruitment CGO Complex, Lodhi Road, New Delhi-110003
4. The DIG, TC and S, BSF, Meru, Distt.- Hazaribagh (Jharkhand)
5. Commandant, TC ands, BSF, Meru, Distt.- Hazaribagh (Jharkhand)
6. In-Charge Recruitment Centre R.M.E., S/GD Recruitment-2015, 40th Battalion, ITB police force Sukurhuti Camp, P.o.- Kanke, Distt.- Ranchi (Jharkhand)

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Suraj Narain Yadav, Adv. Ms. Sweta Kumari, Adv. Mr. Chandra Mohan, Adv.
For the Respondent/s	:	Mr. Awadhesh Kumar Pandey, Adv. Mr. Ravinder Kumar Sharma, Adv. Mr. Lokesh, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 20-02-2023

Heard Mr. Suraj Narain Yadav, the learned
Advocate for the appellant and Mr. Ravinder Kumar Sharma,
the learned Advocate for the Union of India.



The appellant has lost an opportunity of being employed as a General Duty Constable for the reason of brief illness, which was but medically addressed successfully.

The learned counsel for the appellant has submitted that after clearing other formalities, he was subjected to medical examination on 01.06.2016 when he was found to be suffering from Inguinal Hernia on the right side. He was declared unfit but was given an opportunity to apply for review medical examination.

Upon filing of the review petition on 16.06.2016, the appellant was subjected to another medical examination on 08.09.2016.

Before that, the appellant had successfully been operated upon but in view of the revised guidelines, contained in office memorandum dated 20.05.2015, declaring that an operated case will not be accepted within six months of surgery, the appellant was declared unfit.

Mr. Yadav has vehemently contended that the date for review medical examination ought to have been fixed only after six months and not before that. He therefore



submits that the appellant has been put to unnecessary hardship by fixing a date when six months had not elapsed after his successful operation to test whether there has been any recrudescence of the decease.

The afore-noted argument has no substance for the reason that the date was fixed for review examination without the respondent authority having been informed that the appellant had been successfully operated upon. Even otherwise, such a request does not appear to be tenable for the reason that the uniform guidelines regarding medical examination for recruitment of Constable specifically illustrates the case of Inguinal Hernia. Anyone suffering from the Inguinal Hernia would be in a position to have such operation done upon him but even after operation, the candidature would be acceptable only when the scar of operation is found to be well healed and the tissues are supple and non tender. The candidate is also required to reflect good abdominal muscle and that there should not be any tendency of recurrence within six months of the operation.



It appears that to be on the safer side, the guidelines further provides that an operated case will not be accepted within six months of surgery.

It is really unfortunate that even when the appellant has been successfully operated upon for Hernia, he was declared unfit but for that the respondents cannot be blamed.

Based on the afore-noted reasons, the claim of the appellant has been dismissed by the learned Single Judge vide order dated 28.02.2019 passed in C.W.J.C. No.18222 of 2016

We do not find any reason to interfere with the same.

The appeal is dismissed.

(Ashutosh Kumar, J)

(Harish Kumar, J)

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AFR/NAFR	NAFR
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