

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18010 of 2015

=====

Ravi Kant Paswan son of Shri Ramishwar Paswan, resident of village-
Tikabigha, P.O. Narayanpur, P.S.- Telhara, District- Nalanda Bihar

... .. Petitioner/s

Versus

1. The Union Of India and Ors
2. The Director General of Police, Central Reserve Police Force, C.G.O. Complex, Lodhi Road, New Delhi
3. The Inspector General of Police, Central Reserve Police Force, West Bengal Sector, Saltlake, Kolkata
4. The Deputy Inspector General of Police Recruitment, Directorate, Central Reserve Police Force, Lod
5. The Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Siliguri West B
6. The Chief Medical Officer SG, Composite Hospital, Border Security Force, Kadamtala

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Umesh Kumar Mishra
For the Respondent/s	:	Mr. A.K. Pandey, SCGC
		Mr. R.K. Sharma, CGC

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 08-12-2023 Heard Mr. Umesh Kumar Mishra, learned counsel for

the petitioner and Mr. A.K. Pandey, learned Sr. C.G.C. assisted by

Mr. R.K. Sharma, C.G.C. appearing on behalf of Union of India.

2. The present writ application has been filed for
quashing the letter No. R.II_05/2014/Estt. 5 (SSC -1385 RTs)
dated 21.09.2015 issued under the signature of the Deputy
Inspector General of Police, Group Centre, Central Reserve Police
Force, Siliguri (West Bengal), by which offer of appointment of
the petitioner for the post of constable/G.D. in Central Reserve



Police Force vide letter dated 09.07.2015 has been canceled on flimsy ground and further to appoint the petitioner on the post of constable/G.D in Central Reserve Police Force in terms of the appointment letter dated 07.07.2015 as the petitioner was earlier declared medically fit.

3. Pursuant to the advertisement published in Rozgar Career dated 15.12.2012 for recruitment of constable (G.D.) in BSF. SSB/ITBP/CRPF/CISF and Assam Rifles through the Staff Selection Commission, the petitioner has applied for the post of Constable (G.D.) and accordingly the petitioner was allowed to participate in the physical test in which he has been declared successful vide Annexure-8 and thereafter a provisional letter of appointment for the post of Constable has been issued to the petitioner vide SCC No. 1385 RTS dated 09.07.2015 allotting Roll No. 4205536193 (Annexure-9). In terms of his provisional letter of appointment, the petitioner has reported his presence in Group Center CRPF Siliguri at Kawakhali P.O. Sushturaganar, District Darjeeling (West Bengal) on 03.08.2015 along with relevant documents and the petitioner was got medically examined on 19.08.2015. Thereafter vide letter No. R.II-05/2014/Estt.5 (SSC-1385 Rts) dated 21.09.2015 issued by the Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Siliguri (West Bengal), the petitioner was communicated that offer of appointment issued to the petitioner



vide office letter dated 09.07.2015 for the post of Constable (G.D.) has been canceled on the ground of medical examination in which the petitioner has been found medically unfit with remarks that ***“Mild superficial varicose vein present at back of thigh and popliteal fossa”***, as is evident from Annexure-11 to the writ application which is under challenge in the present writ application.

4. The specific case of the petitioner revolves around the medical test conducted at Bokaro CISF in which he has been declared fit in the year 2013 itself and thereafter in the year 2014, the petitioner has been reexamined and declared fit for the appointment of Constable and thereupon the petitioner has been offered appointment letter for the post of Constable. It is further contended that for two occasions, the petitioner has been found medically fit for the appointment but in terms of the offer of appointment letter, which is Annexure-9, the medical examination of the petitioner has been reviewed and he has been declared unfit with remarks that ***“Mild superficial varicose vein present at back of thigh and popliteal fossa”*** whereas the petitioner has been medically examined before the North Bengal Medical College & Hospital, Department of Health & Family Welfare, Government of West Bengal in which the doctor has opined that “clinically dilated vein but no varicose vein is proved”, which is evident from Annexure-10 to this writ application. It is



further contended that since there is contradiction in the report of medical examination and review examination of the petitioner and the appointment of the petitioner hinges upon the medical report itself, it would be better in the interest of justice to direct the respondent authorities to reconstitute a medical board for review of the medical report of the petitioner leading to cancellation of his offer of appointment on the post of constable.

5. Per contra, learned counsel appearing on behalf of the respondent-Union of India contends that admittedly the petitioner has been medically examined in the year 2013 and has been found medically fit and, therefore, offer of provisional appointment for the post of constable has been issued to the petitioner in the year 2015 with certain conditions. The relevant conditions would be appropriate to be reproduced herein for better adjudication of the case, which are as follows;

“l) You have to qualify a fresh medical examination if one year validity of your earlier medical examination has been expired.

m) If you have declared fit by RME Board without conducting X-Ray and Pathological tests and have been selected are required to undergo X-Ray and Pathological tests before joining.”

In terms of the aforesaid conditions, the medical examination of the petitioner has been reviewed, as the validity of one year period of initial medical examination in which the petitioner has been declared fit has been expired, and found medically unfit due to deformity of a permanent nature with



remarks that ***“Mild superficial varicose vein present at back of thigh and popliteal fossa”***. It is further contended that once the petitioner has accepted the conditions prescribed in the provisional offer of appointment for the post of constable and accordingly his medical condition has been reviewed in which he has been found unfit, question of appointment for the post of constable does not arise. Therefore, the impugned order has rightly been passed by the respondent taking note of the medical condition of the petitioner in review more particularly in light of the instructions contained in Para-3 and 5(d) of DIGP (Rectt.) Dte. Genl. New Delhi bearing letter No. R.II.15/2014-Rectt (Inst.) dated 03.06.2014 (Annexure-B and C) to the counter affidavit. Hence, the petitioner has got no cause of action warranting interference of this Court as the impugned order does not suffer from any infirmity and has been passed in accordance with the law.

6. Heard the rival contentions of the parties and perused the materials available on record. It is apparent on the face of the record that the petitioner has been issued provisional offer of appointment on the post of constable with one of the condition that if the validity of previous medical examination has attained its finality which was prescribed as one year, the petitioner was supposed to undergo re-examination of medical conducted by the Medical Board in which the petitioner has been



declared unfit. Undoubtedly, the petitioner has undergone medical examination in the year 2013 and validity of which has been expired in terms of provisional offer of appointment. Since the petitioner has voluntarily accepted the conditions of provisional offer of appointment letter and has undergone Medical examination in which he has been found unfit in terms of the remarks of Medical Board as is reflected from Annexure-11 to this writ application, in my view, the petitioner has got no cause of action to interfere with the impugned order and, therefore, the stand of the respondent as elaborated in the counter affidavit is accepted.

7. Accordingly, this writ application is dismissed being devoid of any merit.

(Rajesh Kumar Verma, J)

brajesh/-

U			
---	--	--	--

