

27.09.2023
DL-03
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 21972 of 2023

Milan Shaw
Vs.
Union of India & Ors.

Mr. Debasish Kundu
....for the petitioner.

Ms. Amrita Pandey
....for the respondents.

The petitioner was selected in the Staff Selection Commission (SSC) Examination, 2021 held for recruitment of Constable (GD) in CAPFs, NIA, SSF and Rifleman (GD) in Assam Rifles. The petitioner was selected provisionally in November, 2022. The petitioner was undergoing his training at Udhampur. During the course of his training, the petitioner sustained injury. The petitioner got himself examined at the BSF Hospital on January 22, 2023. The petitioner was admitted to STC Hospital and was given conservative treatment. Then the petitioner was sent for specialized treatment at the Ortho OPD, DH, Udhampur. The petitioner was advised medicines, knee brace and complete bed rest for 10 days. Since there was poor prognosis and restricted range of movement of left knee joint, he was referred to Ortho OPD, SMVDN Hospital, Katra. On February 1, 2023,

the MRI of the left knee of the petitioner was done. The same revealed that there was a complete tear of mid fibres etc. The petitioner was again reviewed at the SMVDN Hospital, Katra on February 3, 2023. He was advised to conservative treatment for 10 days on February 16, 2023. The petitioner was again sent for OPD assessment at the Ortho OPD, SMVDN Hospital, Katra where he was advised surgery and admission for operative procedure. ACL reconstruction was done on February 17, 2023 and he was discharged on February 20, 2023. He was advised physiotherapy and follow checkup. A review checkup was done on February 28, 2023. The suture removal was done on March 9, 2023. The petitioner was advised physiotherapy and reassessment after 30 days. The petitioner was held to have clinically improved on March 23, 2023 even though with restricted range of movement and power.

Thereafter, the petitioner was assessed by the Review Medical Board on March 25, 2023. He was held to be **unfit** on account of ACL tear left knee (operated).

It is the petitioner's grievance that he has been handed over his caste certificate, educational and domicile certificate from the STC, BSF, Udhampur on

June 7, 2023. Despite several representations, the petitioner is also not allowed to join his duties.

Mr. Kundu, learned counsel appearing on behalf of the submits that without any discharge certificate the petitioner is now not being allowed to join his duties or paid his salaries from June 2023.

Ms. Pandey, learned counsel appearing on behalf of Union of India submits that within 2 days of joining of training the petitioner had suffered injury. It is disputed that such injury was suffered during the course of his training or while performing any duty at the behest of his superior officer.

Considering the submissions of the parties and the materials placed on record, this Court is of the view that justice will be sub-served by directing the authorities concerned/respondent no.4 to constitute a Review Medical Board for re-examination of the petitioner's condition and for consideration of the issue whether the petitioner can be considered to be **fit** for the duties for which he has been recruited in the SSC's 2021 Examination. Such exercise shall be completed with 4 weeks from the date of this order.

If the petitioner is otherwise found to be **fit**, he shall be allowed to join his training, immediately.

The period between June, 2023 and September, 2023 will not constitute to be a break in service.

The petitioner shall be eligible for payment of his salaries from the time the assessment by the RME is made, in the event the petitioner is found to be **fit** by the RME.

With the directions aforesaid, **WPA 21972 of 2023** is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)