

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.409 of 2021

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Shyam Kishor Kumar, Son of Shri Dinesh Kumar Yadav, Resident of Village Panhas, Post Suhird Nagar, Police Station Nagar Thana, District- Begusarai.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Home, New Delhi.
2. The Director General of Police, Central Reserve Police Force, New Delhi.
3. The Deputy Inspector General of Police, Group Centre, CRPF, Govind Apartment, Jeevan Vihar Colony Telebandha, Raipur (Chhattisgarh).
4. The Chairman Staff Selection Commission, New Delhi.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. P. K. Shahi, Sr. Advocate Mr. Dinesh Maharaj, Advocate
For the UoI	:	Mr. Awadhesh Kumar Pandey, Sr. C.G.C. Mrs. Kanak Verma, C.G.C.
For the S.S.C.	:	Mr. Radhika Raman, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 07-01-2025

Heard Mr. Pushkar Narayan Shahi, learned Senior Advocate with Mr. Dinesh Maharaj, learned Advocate for the petitioner, Mr. Awadhesh Kumar Pandey, learned Senior C.G.C. with Mrs. Kanak Verma, learned C.G.C., for the Union of India and Mr. Radhika Raman, learned Advocate for the Staff Selection Commission.

2. The petitioner is aggrieved with the orders as contained in Letters No. आर०दो-01/2019-स्था-6 dated 07.07.2020 as well as dated 20.10.2020, whereby the petitioner has been declared unfit and accordingly his candidature has been



rejected. The petitioner also prays for issuance of a direction to restore his candidature and allow him to join the Force on the post of Constable (GD).

3. The factual matrix of the case is that, in the year 2015, the Staff Selection Commission vide Advertisement dated 24.01.2015, invited applications for selection against vacancy for General Duty (Constable) under different Forces. The petitioner having found himself eligible submitted his application. Resultantly, he appeared for test conducted and qualified the physical test held in the month of May 2015. The petitioner further appeared in the written examination on 04.10.2015 and secured 153rd rank in the merit list. In terms of the position in the merit list, the petitioner has been allocated Central Reserve Police Force (for short 'the CRPF'). Upon final publication of the result, when the petitioner has not been called upon to join or any appointment letter has been issued, the matter was enquired and the petitioner came to learn that his candidature has been kept in the category of suspect list due to suspicion raised over his signature/handwriting/left thumb impression taken at the time of medical examination, did not match with the signature/handwriting/left thumb impression already available with the dossier of the recruitment records.



The petitioner was directed to appear before the respondent no.3. In response thereto, the petitioner submitted all the required papers and completed the dossier as directed by the concerned respondent.

4. The respondent authorities, in order to get it verified, sent the matter to Central Forensic Science Laboratory, Bhopal. Finally, the candidature of the petitioner was found genuine vide verification report dated 03.10.2019. Subsequent to which, offer of appointment for the post of Constable (GD) was issued vide letter dated 15.02.2020. The petitioner has further been directed to appear before the Medical Board for physical test. In the medical test, the petitioner was found “overweight with Tachy Cardia” and, as such, he was declared unfit. The case of the petitioner was referred to Joint Hospital Central Reserve Police Force, Bilaspur. The Medical Board has further found the petitioner overweight and accordingly the impugned letter dated 07.07.2020 has been issued, whereby the candidature of the petitioner has been rejected.

5. Being aggrieved, the petitioner filed a detailed representation vide Annexure-7 to the writ petition, however, the same came to be rejected vide order as contained in Letter dated 20.10.2020, which order has also been put to challenge by filing



Interlocutory Application No. 1 of 2021.

6. Learned Senior Advocate, Mr. P. N. Shahi, for the petitioner, while assailing the impugned action and the orders of the respondent authorities, has vehemently contended that the rejection of the candidature of the petitioner is wholly illegal and arbitrary based upon unsustainable ground of being overweight, which is not permanent in nature. The laches, if any, is occurred on the part of the respondent authorities consuming five years even after declaration of result, in the name of verification of signature/handwriting/thumb impression and later on when the apprehension of the selection agency has been ruled, rejection of the candidature of the petitioner on the ground of overweight is wholly arbitrary and illegal. Admittedly, the petitioner was declared physically fit and on being qualified in the written examination, his name was figured in the merit list of selected candidates. Had the petitioner been allowed to join on the selected post, soon after the publication of the result, no ground of being overweight could have arisen. Keeping the matter pending for verification of signature/handwriting/left thumb impression for over a pretty long years, the petitioner cannot be said to be faulted.

7. Attention of this Court has also been drawn to



Recruitment Guidelines, 2008 which specifically grants ten weeks time to the person(s) whose body weight is more than 10% but less than 20% over and above the ideal weight, the copy of which has also been brought on record by way of Annexure-11 to the writ petition. It is the contention of the learned Senior Advocate that the Recruitment Guidelines, 2008 has also been violated by the respondent authorities in straightway rejecting the candidature of the petitioner without giving sufficient time to lose his weight.

8. While drawing the attention of the impugned order, it is further contended by the learned Senior Advocate that the candidature of the petitioner has been cancelled in terms of para-5(b) of the पत्र संख्या आर०दो-15/2014-भरती (निर्देश) dated 07.04.2020, which is quite surprising when the impugned decision to cancel the candidature itself has been taken on 19.03.2020, this clearly shows non-application of mind. It is lastly contended that though in the first round of physical test, the weight of the petitioner was shown as 73 Kg. and thus on being found, physically fit, he was declared a successful candidate but subsequently the petitioner was declared unfit due to his overweight by showing his weight as 78 Kg. Thus, in terms of Standing Order No. 04/2008, the petitioner should be



allowed a chance to reduce his weight within ten weeks. Since the delay and laches are on the part of the respondent authorities, therefore, rejection of the candidature of the petitioner on the grounds afore-noted, is wholly unjust is the contention of learned Senior Advocate for the petitioner.

9. *Per contra*, Mr. Awadhesh Kumar Pandey, learned Advocate for the Union of India, has confronted the submissions of learned Senior Advocate for the petitioner with all vigorous and submitted that the medical examination, pursuant to which the candidature of the petitioner was rejected, the same is in accordance with the instructions contained in DIGP (Rectt), Directorate, New Delhi, Letter dated 07.04.2014, which was erroneously mentioned as dated 07.04.2020. The cancellation of candidature of the petitioner was carried out with due process, in transparent manner and after giving ample opportunity to the petitioner as per the Guidelines. The medical and physical fitness are prime importance for any Forces, hence, it cannot be compromised. If the petitioner was so eager to join the CRPF, he should kept himself physically fit and up to the required standards but he failed in doing so.

10. The qualification requirement pertaining to the weight is in connection with the conditions envisaged in the



official advertisement for recruitment. Upon verification of the signature/handwriting/left thumb impression by the Central Forensic Science Laboratory, Bhopal, the petitioner was again allowed to appear in the medical examination, wherein he has been found unfit for the post of Constable (GD) as he has been adjudged overweight by the Board of Medical Officer. It is further contended that now the entire process of selection in terms of Advertisement dated 24.01.2015 has already come to an end and there is no post vacant of Constable (GD) to be offered to the petitioner. Reliance has also been placed on the judgments rendered by this Court in **L.P.A. No. 1879 of 2012 [The Union of India and Others v. Vikash Kumar]**, **C.W.J.C. No. 19986 of 2011 [Mukesh Kumar Tiwari v. The Union of India and Others]** and **C.W.J.C. No. 17813 of 2016 [Nilesh Pal v. The Union of India and Others]**, wherein the learned Court upheld the decision of Review Medical Examination Board.

11. This Court has given anxious consideration to the submissions advanced by learned Advocates for the parties and also meticulously perused the materials available on record.

12. The question for consideration before this Court can be summarized in an issue as to whether the respondents'



failure to accord the benefit of ten weeks period to reduce overweight to the petitioner in terms of Recruitment Guidelines, 2008, constitutes a violation of procedural fairness; all the more, when the action of the respondents suffers from delay and laches of nearly five years in completing the recruitment process and issuing the offer of appointment, causing prejudice to the petitioner's rightful candidature. In other words, as to whether the petitioner was given sufficient and reasonable opportunity to meet the fitness standards before cancellation of his candidature; and the Guidelines relied upon by the respondents, particularly para-5(b) of the letter dated 07.04.2014 was applicable and enforceable at the time of petitioner's selection and medical examination.

13. With reference to the issue afore-noted, primarily this Court finds that admittedly respondent authorities on being found the petitioner eligible to appear in the selection process allowed him to participate in the medical as well as written examination. The petitioner was qualified in the medical test as well as in the written examination and thus he secured 153rd position in the merit list of selected candidates of Constable (GD) and in terms of position in the merit list, he was allocated CRPF. After completion of the selection process through the



Staff Selection Commission, the recruitment dossiers were collected from the Regional Recruitment Centre and forwarded to the office of GC, Raipur. After due scrutiny of recruitment dossiers of the selected candidates, the candidature of some of the selected candidates were found suspected and thus their recruitment dossiers returned to the competent authority for further follow up action. In case of the petitioner, his thumb impression has been suspected and further his handwriting during written test, on Admit Card and DME did not match. Keeping in view the aforesaid fact, the petitioner was directed to appear before the competent authority and submit necessary documents and his specimen signature in order to verify the same with signature and handwriting already available in the recruitment dossier. The specimen signature and handwriting of the petitioner were collected and forwarded to the Co-ordinator Central Forensic Science Laboratory, Bhopal, MP vide letter dated 02.11.2017. Finally, the Co-ordinator, CFSL, has forwarded the verification report to GC, Raipur vide letter dated 11.11.2019. The aforesaid report has been marked as Annexure-H to the counter affidavit. The report clearly demonstrates that no mismatch has been found and the candidature of the petitioner has been found to be genuine. On receipt of the



verification report and recruitment dossier, pursuant to the direction of the DIGP (Rectt), Directorate, New Delhi, the GC, Raipur, was directed to issue offer of appointment immediately to the petitioner and accordingly as per the direction, the offer of appointment was issued to him vide letter dated 15.02.2020 (Annexure-K to the counter affidavit).

14. The facts afore-noted clearly demonstrate that the advertisement which was published way back in the year 2015 and upon being qualified, the final result was published in the year 2017, to be more specific on 06.02.2017 but on the pretext of verification, the matter remained pending for a pretty long time of three years and finally the offer of appointment was issued on 15.02.2020.

15. The delay as afore-noted, *prima facie*, appear to be unreasonable, even if taken place on account of the verification of the signature/thumb impression/handwriting, the petitioner cannot be held to be at fault in any of the manner. The respondent authorities, who had sent the documents/dossier/specimen signature of the petitioner for verification where the verification of the petitioner's candidature has been turned out to be positive and in his favour, either the petitioner would have been allowed him to join the post or in



case any medical test was required, he must be given a prior notice in this regard with clear stipulation. Nonetheless, in compliance to the offer of appointment, the petitioner was asked to undergo a fresh medical test and in response thereto, he ensured his presence, however, after due medical examination at GC, Hospital, Raipur, the petitioner has further been referred to Joint Hospital, CRPF, Bilaspur for review medical as he was found overweight with Tachy Cardia and subsequently the petitioner was declared medically unfit due to overweight.

16. In the case in hand, the petitioner had qualified the preliminary medical examination initially in the year 2015, which was relevant for his selection, however, after causing delay of five years on the pretext of verification of the candidature in offering appointment to him and then rejecting his selection on the basis of the post medical examination conducted after a huge delay of five years without giving him sufficient opportunity to compete with the required standard, is wholly arbitrary and unjustified.

17. This Court also finds substance in the submission of the petitioner that once in terms of the Guidelines as contained in Standing Order No. 04/2008 (Annexure-11), which clearly stipulates that if body weight is more than 10% but less



than 20% over and above the ideal weight expected of the height and age without any symptom/sign of metabolic abnormality, the official will be advised, in writing to reduce his weight within ten weeks under information to his controlling officer; whereupon he/she shall be reassessed immediately on completion of this period. Hence, in the opinion of this Court, in terms of the policy decision as afore-noted, the respondent authorities were also bound to provide one more opportunity after ten weeks to the petitioner for further medical test but the same has not been provided and the respondent authorities straightway rejected the candidature of the petitioner.

18. Not granting reasonable opportunity in terms of the guidelines for meeting the fitness standards, in the case in hand, where the petitioner had already been selected on the basis of written test and after proper medical examination, in the opinion of this Court, would certainly amount to violation of the procedural fairness.

19. So far the contention of the respondent authorities that the candidature of the petitioner has been referred to the Review Medical Board and on being found medically unfit rejected in terms of para-5(b) of the letter dated 07.04.2014 is concerned, it is needless to observe that the same is certainly



applicable to the process of selection of Constable (GD) but, in the case in hand, where there is no laches on the part of the petitioner and despite his selection, if the delay in verification of candidature is caused, which is obviously attributable to the Recruitment Agency or Forensic Science Laboratory; hence in the facts of this case, the Recruitment Guidelines, 2008, cannot be given a go by.

20. The decision relied upon by the learned Advocate for the respondents in no uncertain terms held the primacy of Medical Review Board and thus the High Court, in exercise of its power of judicial review, ordinarily should not interfere with the opinion of experts, unless there is some infirmity in the process of medical examination. However, with all humility the ruling as afore-noted, is not applicable in the special facts of the case, which is quite distinguishable and already discussed in the afore-going paragraphs.

21. Law is well settled that the case having special facts and circumstances, must be dealt with utmost care and caution so that no prejudice could be caused to the person who had never been at fault.

22. In view of the discussions made hereinabove, the issue framed in this case is answered accordingly. The orders as



contained in Letters No.आर०दो-01/2019-स्था-6 dated 07.07.2020 as well as dated 20.10.2020 are, hereby set aside. The respondents are directed to issue fresh notice to the petitioner to appear in the medical examination with the prior notice in terms of Recruitment Guidelines, 2008 as contained in Standing Order No. 04/2008.

23. Suffice it to observe that in case, the petitioner is found medically fit, he must be accorded fresh appointment letter against any of the vacant and sanctioned post of Constable (GD). In case, there is no vacant and sanctioned post in terms of the Advertisement dated 24.01.2015, the petitioner shall be adjusted against future vacancy which has arisen during the interregnum period, keeping in view the distinct facts of this case.

24. The writ petition stands allowed to the extent indicated hereinabove.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.01.2025
Transmission Date	

