

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1395 of 2021

Prashant Kumar, Son of Late Shashi Bhushan Singh, Resident of Ward No. 14
Simari Bigha, P.S. Warisalignaj, District-Nawada.

... .. Petitioner/s

Versus

1. The Union of India through Union Home Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi-110001
2. The Union Home Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi-110001
3. The Secretary, Department of Internal Security, Ministry of Home Affairs, Government of India, North Block, New Delhi-110001
4. The Joint Secretary, Police-II Division, Department of Internal Security, Ministry of Home Affairs, Government of India, North Block, New Delhi-110001
5. The Director General of Border Security Force, Block 10, CGO Complex, Lodhi Road, New Delhi 110003
6. The Inspector General of North Bengal Frontier Region, Frontier Headquarter Border Security Force, North Bengal, Kadamtala, District-Darjeeling, West Bengal
7. The Commandant SHQ, BSF Camp Khagra, Kishanganj, Bihar
8. The Director General of Central Reserve Police Force, Directorate General, Central Reserve Police Force, Block No.-1, C.G.O. Complex, Lodhi Road, New Delhi-110003
9. The Directorate General CRPF (Recruitment Branch), East Block-07, Level-4, Sector-01, R.K. Puram, New Delhi 110066
10. The Staff Selection Commission, through its Chairman, SSC, Block No. 12, 4th Floor, CGO Complex, Lodhi Road, New Delhi 110003
11. The Secretary cum Controller of Examination, Staff Selection Commission, SSC, Block No. 12, 4th Floor, CGO Complex, Lodhi Road, New Delhi 11003
12. The Regional Director, Central Region, Staff Selection Commission, Kendriya Sadan, 34-A, MG Marg, Civil Lines, Prayagraj, U.P. 211001

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ravish Chandra, Advocate
For the UoI	:	Mr. Awadhesh Kumar Pandey, Sr. CGC.
		Mr. Lokesh, Advocate
		Mr. Abhishek Kumar Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT



Date : 29-04-2025

The petitioner is aggrieved with the Medical Examination report dated 10.02.2020 issued by the Board No.2, GD-2018, Recruitment Constable, at BSF Camp Khagra, Kishanganj whereby the petitioner was declared medically unfit in Constable (GD) Exam, 2018. The petitioner also assailed the Review Medical Examination Report dated 30.09.2020 prepared by the Review Medical Examination Board at BSF Camp Khagra, Kishanganj, whereby the aforementioned Medical Examination report dated 10.02.2020 was affirmed and the petitioner was once again declared to be medically unfit.

2. The short facts, which led to the filing of the present writ petition are that the petitioner in pursuant to Advertisement published by the Staff Selection Commission dated 21.07.2018 has applied for the post of Constable (GD). Having been declared successful in the written examination, the petitioner was called for Physical Standard Test/Physical Efficiency Test on 14.08.2019 where he was declared successful. The petitioner was further called for Detailed Medical Examination on 07.02.2020 at BSF Kishanganj-2, BSF Campus Kishanganj (Khagra Camp). Upon Detailed Medical Examination of the petitioner, he was found to be medically unfit to be recruited against the post of Constable (GD). The petitioner was declared unfit on account of Flexed Distal



Phalanx of Index Finger, Right hand and further on the ground of knock knee (inter-malleoli distance 5.5 cm). In terms of the prescription, the petitioner was provided opportunity to appeal against the Memorandum dated 10.02.2020 and to avail such remedy, the petitioner got his examination done by the Orthopaedic Surgeon of Nawada Sadar Hospital, who opined that the mallet finger will reverse with time and that distance within two knees meet to each other is such that it is normal. The aforesaid opinion/certificate has been placed on record as Annexure-P/3 Series. The petitioner was further examined by the Orthopaedic Department of Patna Medical College Hospital where he was also found medically fit. To support the aforesaid contention, the copy of the Medical report has been placed on record as Annexure-P/4.

3. In the light of the medical opinion afore-noted, the petitioner preferred appeal, whereupon, he was called for Review Medical Examination at BSF Camp, Khagra, but upon being examined, the petitioner was again declared unfit on the aforesaid reasons, as was disclosed in the Detailed Medical Examination Report contained in Memo dated 10.02.2020.

4. Mr. Ravish Chandra, learned Advocate for the petitioner has candidly submitted that undoubtedly the Medical assessment of the Review Medical Board cannot be questioned on its merit. However, in the case in hand since the guidelines



for recruitment for the post of Constable (GD) in different Central Armed Forces under the Ministry of Home Affairs has been given a complete go-bye, hence interference is required while exercising the power of judicial review in the matter.

5. Taking this Court through the Guidelines, 2015, it is vehemently contended that it was incumbent upon the Recruitment Board that while conducting medical examination of a candidate, if the candidate is found to be unfit, the recruiting Medical Officer would record the parameter with reference thereto where unfit has been opined. The reference would be to the requisite standards prescribed and accepted as such by the experts in the field. It is the specific contention of the petitioner that no parameters with reference where unfit has been opined has been mentioned in any of the Medical report.

6. Referring to Clause (P) of the Guidelines, 2015, it is further contended that there was specific stipulation that not more than 20 candidates should be examined by the Medical Board in a day, but it is admitted position that more than 30-35 candidates were examined by the Medical Board in a day, hence there is every chances of mistake occurred in the Medical assessment. He further referred to Clause 7 of the Guidelines and submitted that acceptance of candidates, suffering from trifling defects may be ignored, such as mild knock knee with inter-malleoli distance 5 cm or less. It is further contended that



any slight defects which in the opinion of the Recruiting Medical Officer will not interfere with efficiency of candidate as a soldier in future.

7. Highlighting the guidelines for Review Medical Board, it is next contended that there is specific prescription that the defect for which the candidate has been declared unfit should be examined thoroughly and the finding must be supported by proper investigation reports if applicable. In the case of the petitioner, no X-ray was done, though for Knock knee, X-ray plate with findings should be attached, as it is specifically prescribed under the guidelines.

8. Reliance has also been placed on a decision rendered by the learned coordinate Bench of this Court in the case of **Karyanand Kumar Vs. The Union of India & Ors.** (CWJC No. 16766 of 2016) and analogous case wherein the Court in identical facts, where the respondent authorities have ignored the specific prescription of the guidelines has set aside the impugned order and remitted the matter to the Inspector General, FTR Headquarter, 'SSB' to take all effective steps for constitution of the Medical Board afresh for expressing their opinion bearing in mind the stipulations present in the guidelines in force on the issue of Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles.

9. Reliance has also been placed on a decision of



the learned coordinate Bench of this Court in the case of **Ashok Kumar Vs. The Union of India & Ors** (CWJC No. 2195 of 2021) wherein the Court on being found discrepancy in the opinion of the Medical officers has referred the matter to the Registrar/Superintendent, AIIMS, Patna to ensure medical examination of the petitioner and submit its report.

10. On the other hand, Mr. Awadhesh Kumar Pandey, learned Sr. C.G.C. for the Union of India, at the outset, submitted that the entire selection process has already come to an end and no post remained vacant at present. It is further contended that the opinion of the Review Medical Board cannot be lightly interfered by the Court, as in any circumstances once the Medical experts have examined and re-examined the petitioner, the Court cannot sit over the same and adjudicate upon the correctness of the opinion expressed by the medical experts especially when this Court does not have the expertise to decide as to whether the medical experts' opinion are right or wrong. Reliance has also been placed on Division Bench decision of the Punjab and Haryana High Court in the case of **Sumit Vs. Union of India** (LPA No. 871 of 2022). Further, various rulings have also been referred to refute the contention of the petitioner, the copies of which are placed on record by filing supplementary counter affidavit, as Annexures-R/1, R/2, R/3 and R/4.



11. A decision of the coordinate Bench of this Court rendered in the case of **Nitesh Kumar Bhardvaj Vs. The Union of India & Ors** (CWJC No. 1556 of 2017) has also been placed before this Court to buttress his submission.

12. After taking this Court through the decisions aforesaid, learned Advocate for the Union of India has further drawn the attention of this Court to the averments made in the counter affidavit and submitted with all vehemence that the certificate issued by the Medical Officer of Sadar Hospital, Nawada as well as Patna Medical College Hospital were not binding on the finding of the Review Medical Board. The decision of the CAPF's Review Medical Board will be final and no appeal will be entertained against the findings of the second medical i.e. Review Medical Examination.

13. It is further argued that the doctors of the Central Armed Police Forces are well known about the service condition i.e. high altitude area, extreme cold climate, very hot climate, hilly terrain and other climatic condition during the training period. Therefore, the CAPFs doctors can very well judge the diseases/disability, which affects the candidate during training and further during the service period. It is also contended that there is no allegation of bias and malafide against any of the members of the Medical Board or the Review Medical Board, hence the conclusion drawn by the Review



Medical Board cannot be negated on the basis of the opinion of civil doctor, unaware of the physical standards required in the CAPFs. The petitioner was duly examined by the Medical Board as well as Review Medical Board and after proper examination, the petitioner has been declared unfit.

14. Having anxiously heard learned Advocate for the respective parties and after going through the decisions placed before this Court, there is no iota of confusion to accept the contention of both the parties to the extent that the Army has its own specialized hospitals, where specialized doctors and equipment for treatments are available and medical tests are conducted to evaluate the medical fitness of the person for recruitment for the Armed Services like the Army.

15. The learned Division Bench of this Court in the case of **Union of India and Others v. Dilip Kumar Yadav [L.P.A. No.739 of 2017]**, has explicitly opined that when there is a dispute with regard to the medical examination conducted by the Army authorities, Appellate Medical Board and other Boards are available in the Army itself, the matter should have been referred to the Appellate Medical Board. Once, the Appellate Medical Board consisting of medical experts have already examined and re-examined, the Court is not required to sit over the same and adjudicate upon the correctness of the opinion, especially when the Court does not have expertise to



decide as to whether the opinion of the expert is right or wrong.

16. Reliance placed by the learned Advocate for the Union of India over a decision rendered by the learned Division Bench of this Court in the case of **The Union of India and Others v. Vikash Kumar [(2016) 2 PLJR 281/L.P.A. No.1879 of 2012]**, has also emphasized that the report of the experts of the Review Medical Board cannot be interfered with only because some doctor opined the other way. If there is no allegation of bias or *mala fide* against any of the members of the Medical Board or the Review Medical Board, the conclusions drawn by the Medical Board cannot be negated on the basis of a civil doctor, unaware of the physical standards required in the Para Military Forces. The opinion of the Board or the Review Medical Board cannot be said to be inchoate, casual, perfunctory or vague as there is no material to say so. The learned Division Bench has observed that the High Court, in exercise of power of judicial review, should not have directed the medical examination by a doctor posted in the High Court and to order his appointment only on the basis of such report.

17. It would be further beneficial to quote relevant extract of the decision rendered by the Apex Court in the case of **Union of India v. Manjeet Singh [(2015) 12 SCC 275]**, wherein the Court while examine the decision of the authorities of the Armed Force has held as follows:



“20.6. The burden to disprove the correlation of the disability with the Army service has been cast on the authorities by the Regulations, Rules and the General Principles and thus, any inchoate, casual perfunctory or vague approach of the authorities would tantamount to non-conformance with the letter and spirit thereof, consequently invalidating the decision of denial. Though the causative factors for the disability have to be the rigour of the military conditions, no insensitive and unpragmatic analysis of the relevant facts is envisaged so as to render any of the imperatives in the Regulations, Rules and General Principles otiose or nugatory. To the contrary, a realistic, logical, rational and purposive scrutiny of the service and medical profile of the member concerned is peremptory to subserve the true purport and purpose of these provisions.”

18. True it is that Indian Army, an integral part of the defence mechanism system of our nation. The safety and security of the nation rests upon them.

19. It is rightly said by a Bench of the Calcutta High Court in the case of **Subhajit Mondal v. Union of India [2019 SCC Online Cal 443]**, the Armed Forces must be extremely fit by all standards i.e, physically, mentally and emotionally. Our country will not remain in safe hands if the Army men are not fit. With the view to select the best candidate the Army is required to maintain very high standards as regards fitness is



concerned. There is no scope and reason to tinker with the standard of physical fitness required for joining the Indian Army.

20. The opinion of the Court is invariably-consistent that the doctors of the Forces are the best judge in ascertaining whether a candidate ought to be enrolled in the services or not, owing to strenuous and hostile terrain and environment, where personnel would have to serve.

21. The Hon'ble Supreme Court has time and again ruled that the Courts are extremely hesitate to interfere with the opinion of the experts, however, there is nothing like exclusion of judicial review of the decision taken on the basis of such opinion. It would be prudent to encapsulate para-10 of the decision rendered by the Hon'ble Supreme Court in the case of **Veer Pal Singh v. Secretary, Ministry of Defence [(2013) 8 SCC 83]**

“10. Although, the Courts are extremely loath to interfere with the opinion of the experts, there is nothing like exclusion of judicial review of the decision taken on the basis of such opinion. What needs to be emphasized is that the opinion of the experts deserves respect and not worship and the courts and other judicial/quasi-judicial forums entrusted with the task of deciding the disputes relating to premature release/discharge from the army cannot, in each and every case, refuse to examine the record of the Medical Board for



determining whether or not the conclusion reached
by it is legally sustainable.

(Emphasis supplied.)

22. This Court has rightly been reminded that the High Court in exercise of its powers under Article 226 of the Constitution of India is not sitting as an Appellate Court against the finding recorded on appreciation of facts and the evidence on record.

23. In the light of the legal position as discussed hereinabove, now coming to the facts of the case in hand.

24. The very challenge of the petitioner is not on the merit of the report and the medical assessment of the Review Medical Board rather the entire emphasis of the learned Advocate for the petitioner is to show infraction of the guidelines for recruitment for the post of Constable (GD), which in his submission, resulted into manifest illegality.

25. The Government of India in the Department of Ministry of Home Affairs issued guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, which came to be revised on 20.05.2015. The very aims and object of the guidelines is to ensure that the Medical Officers need to be careful, meticulous and judicious during Recruitment Medical Examination. It is made clear that during the medical examination for the purposes of recruitment, it is neither feasible on ground to elicit history nor do the



candidates reveal their disease. Moreover, to complete medication examination within stipulated time with limited investigations and in absence of true past history, the chances of various diseases which are totally based on history cannot be ruled out at the junctures; so, in such inevitable circumstances, the recruiting Medical Officer is left with no choice but to make decision only on clinical findings.

26. It is instructed to the Recruiting Medical Officer, while conducting medical examination of a candidate, if finding the candidate to be unfit, would record the parameter with reference thereto unfit has been opined. A reference would be made to the requisite standards prescribed or known to the prescribed and accepted as such by the experts in the field. To make the medical test transparent, sanguine and *bona fide*, the guidelines instructed that not more than 20 candidates should be examined by the Medical Officer/Medical Board in a day.

27. In the case of the petitioner, he was diagnosed with (i) Flexed Distal Phalanx of Index Finger Right Hand and further (ii) Knock Knee (Intermallelar distance 5.5 cm.). The guidelines deals with the Knock knee, bow leg, cubitus valgus and varus deformities, X-Ray plate with findings should be attached. It is further instructed that in Review Medical Examination, candidates are subjected to require concerned investigation whenever and wherever it is applicable or on the



basis of scientific evidence but rejection merely on clinical findings is to be avoided. Any decision on rejection must be taken with valid clinical findings fully justified and supported by corroboratory investigation reports and if needed opinion of specialists/super specialists of Government Hospitals/Medical Colleges/Government approved private medical centers should be taken. The guidelines, especially Clause 7 thereof, talks about minor acceptable defects and Clause (b) of which clearly states that Mild Knock-knee-With Inter-malleoli distance 5 Cms. or less is acceptable defect.

28. The opinion of the Medical Board as well as the Review Medical Board, giving opinion that the petitioner is subjected to disqualification based on the findings of Knock-knee (Intermalleolar distance 5.5 cm.) is not based on any X-ray report with the findings, which must be followed before coming to the conclusion of unfitness. It is the specific case of the petitioner that X-ray was not done at the Detailed Medical Examination or the Review Medical Examination stage. The petitioner had produced the X-ray report done at the PMCH, Patna where he was found to be fit and normal without any Knock-knee or the Flexed Distal Phalanx by the ortho-specialist. Similar was the opinion of the ortho-specialists at Nawada Sadar Hospital. The Review Medical Examination was done in a hot and hasty manner without any clinical finding



based upon medical report, which finding also get corroborated in view of the admitted position that in a day more than 30-35 candidates were examined by the Medical Board, contrary to the instruction that restricts the examination upto 20 candidates.

29. So far the defect pointed out by the Review Medical Examination regarding Flexed Distal Phalanx of Index Finger Right Hand, which is said to be another cause of rejection is concerned, such finding is also not based upon after following the instruction(s) issued under the guidelines and without considering the Clause-7 thereof, wherein the minor defects mentioned therein ought to be acceptable.

30. From the afore-noted discussions, especially after going through the guidelines issued by the Government of India, Ministry of Home Affairs (Police Division-II), prescribed for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, this Court is of the opinion that the Medical Board and the Review Medical Board while opining the petitioner unfit, have failed to adhere with the prescriptions of the guidelines and thereby deprived him from fair treatment during the course of medical examination.

31. Right to consider for appointment and fair examination of the candidature of a candidate flows from Article 14 of the Constitution and, as such, the respondent authorities are obliged to extend fair treatment to the petitioner.



Hence, this Court finds the Detailed Medical Examination report dated 10.02.2020 and Review Medical Examination Report dated 30.09.2020 of the petitioner are unsustainable; Accordingly, hereby set aside.

32. The matter is remitted to the respondent no.5, The Director General of the Border Security Force, to take effective steps for Constitution of the Review Medical Board afresh, who shall examine the petitioner after giving him proper notice in terms of the guidelines discussed hereinabove, on the issue of recruitment and take appropriate action in accordance with law based upon such report.

33. The entire exercise must be completed, preferably within a period of twelve weeks’ from the date of receipt/production of a copy of this order.

34. The writ petition stands disposed off.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08-05-2025
Transmission Date	

