

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1556 of 2017

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Nitesh Kumar Bhardvaj Son of Shri Biresh Kumar Singh, Resident of Village-
Lakshanpur, Police Station- Ara Muffasil, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The Union Of India through the Secretary, Ministry of Home Affairs, Government of India, New Delhi.
2. The Regional Director, Staff Selection Commission, Central Region, Allahabad.
3. That Directorate General CRPF, CGO Complex, Lodhi Road, New Delhi) Ministry of Home Affairs).
4. The Inspector General, Frontier Hqrs, BSF, North Bengal, Kadamtala, Darjeeling (West Bengal).
5. The Deputy Inspector General (Recruitment), Directorate General, CRPF, CGO Complex, Lodhi Road, New Delhi
6. The Recruitment Board, BSF Campus, Kishanganj (Khagra Camp), Bihar.
7. The Chief Medical Officer, Recruitment Board No.-2, BSF Campus, Kishanganj (Khagra Camp), Bihar.
8. The Presiding Officer, Second-in-Command, Recruitment Board No.-2, BSF Campus, Kishanganj (Khagra Cammp), Bihar.
9. The Presiding Officer (Review Medical Examination Board) BSF Campus, Kishanganj (Khagra Camp) Recruitment Board No.2 (Bihar)
10. The Members of Review Medical Examination Board, BSF Campus, Kishanganj (Khagra Camp), Recruitment B oard No.2 (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Sr. Advocate Ms. Smriti Singh, Advocate Mr. Vipin Kumar Singh, Advocate
For the Union of India	:	Dr. Maurya Vijay Chandra, Advocate Mr. Gaurav Govinda, Advocate Ms. Preety Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 16-01-2025

Heard Learned Counsel for the petitioner and

Learned Counsel for the Union of India.



2. The petitioner has filed this writ petition with the following reliefs:-

(i) For issuance of writ in the nature of mandamus or any other appropriate writ for necessary direction to the respondent authorities to appoint the petitioner on the post of constable (GD) on the basis of advertisement as the objection of the medical board regarding medical fitness of the petitioner is baseless and nonexistent and the doctor from the Govt. Hospital has issued medical certificate regarding medical fitness of the petitioner.

(ii) For holding that it is highly arbitrary and illegal on the part of the medical board to hold that the petitioner still suffers with Hydrocele (right side) while the doctor from the Govt. hospital has certified that the petitioner is in a fit medical condition.

(iii) For issuance of writ in the nature of certiorari or any other appropriate writ for quashing of the Medical examination report dated 28.05.2016 issued by Chief Medical Officer, Recruitment Board No.- 2, BSF Campus, (Khaghra Camp), Kishanganj, Bihar, by which the petitioner has been declared medically unfit for the post of constable(GD) in



CAPFs.

(iv) For issuance of writ in the nature of certiorari or any other appropriate writ for quashing of the review medical examination report dated 01.09.2016 issued by P.O. (RME Board), BSF Campus, Kishanganj (Khagra Camp), Recruitment Board No.- 2 by which petitioner has been declared medically unfit for the post of constable (GD) in CAPFs.

(v) For issuance of writ in the nature of mandamus or any other appropriate writ directing the respondents to get the petitioner examined by independent board so that the correct medical condition of the petitioner may be verified.

(vi) For issuance of any other appropriate writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.

3. Learned Counsel for the petitioner fairly submits that the petitioner is a citizen of India and in pursuant to the advertisement published in the newspaper on 24.01.2015 he has participated in the examination of Staff Selection Commission (Central Region) for recruitment to the post of constable (GD) in BSF, CRPF, CISF, ITBP, SSB, NIA, SSF and Rifleman in Assam Rifles as per the recruitment scheme



formulated by the Ministry of Home Affairs. Learned Counsel for the petitioner submits that the recruitment process was consisted of Physical Test, Written Examination and Medical Fitness Test. Counsel submits that the petitioner was qualified in the physical test and written examination test, but in the medical fitness test he was found unfit. Learned Counsel for the petitioner further submits that the petitioner filed review application against medical fitness test which was entertained by respondent authorities. But in the review, the Medical Board has again found the petitioner medically unfit. Counsel further submits that the petitioner had got himself checked up before the Consultant Surgeon who had granted certificate that he is clinically fit, which is annexed as Annexure-8. Learned Counsel also submits that the petitioner thereafter got himself checked before the Civil Assistant Surgeon, Sadar Hospital, Arrah, who also found the petitioner fit and no defect of Hydrocele or swelling was detected. In this background, Learned Counsel for the petitioner made representation before respondent authority but no action was taken. Therefore, the petitioner preferred the writ petition. Learned Counsel for the petitioner further submits that a similarly situated person, who was disqualified on the same ground of right side of Hyrdocele in the fitness, had



represented before the Review Board and Review Medical Board found him fit in the review. Learned counsel for the petitioner submits that the petitioner deserves parity as the case of another candidate, namely, Ajit Kumar Pal (Roll No.3205064406) and the case of petitioner are same. In this background, the Counsel for the petitioner submits before this Court to consider his case and direct the respondent authorities to select the petitioner and the rejection on the ground of Hydrocele with right varicocele may not be considered.

4. Learned Counsel for the Union of India, on the other hand, submits that under the recruitment process it is the team of Medical Board who used to conduct the medical fitness test. Counsel for the Union of India submits that the petitioner was appeared before the Medical Board and the Medical Board found the petitioner unfit. Subsequently, his review was entertained and Medical Board has reviewed the medical fitness of the petitioner and found him unfit. Counsel further submits that the specific pleading has been made in the counter affidavit. Counsel for the Union of India submits that during Medical Examination the petitioner was examined by the Medical Board and declared him unfit due to “B/L Hydrocele with right side varicocele (optd) on 23.04.2016”. Besides above, Review



Medical Board had also examined properly after consideration of his medical fitness certificate issued by the civil doctor and submitted by him and again declared him unfit on the same reason under which he was declared unfit during Initial Medical Examination. The petitioner was examined two times by separate Medical Boards but he could not prove himself as medically fit as per the eligibility criteria, which were necessary for the post which he had applied. Hence, the prayer of the petitioner for quashing the medical Examination report dated 28.05.2016, Review Medical Examination report dated 01.09.2016 and to constitute an Independent Board for his re-examination may not be considered at this juncture as whole recruitment process at all the centers have already been completed in time bound process. The petitioner was an operated case of right side varicocele and as per instructions given in medical guidelines for varicocele, right sided varicocele of any degree will be declared unfit.

5. Upon considering the arguments of the parties and the points raised, this Court is of the firm view that selection of the petitioner has to be made for the force, namely, constable (GD) in BSF, CRPF, CISF, ITBP, SSB, NIA, SSF and Rifleman in Assam Rifles and medical fitness is one of the basic



criteria for them. From the pleading, it transpires that the petitioner suffered from operation under right Hydrocele and the reason has also been assigned by the respondent-Union of India in the pleading whereas the case of the petitioner is not as like that of other petitioner Ajit Kumar Pal (Roll No.3205064406). As such, petitioner is not entitled for any parity.

6. This Court is of the firm view that when Medical Board and the Review Medical Board are of the firm opinion that the petitioner is not found fit then it shall not be appropriate for this Court to interfere in this matter where special medical team has taken the decision. As such, this Court finds no merit in this matter. Accordingly, this writ application is dismissed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.01.2025
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