

S/L 23
08.06.2026
Court No.04
B.K.N

**F.M.A. 217 of 2026
With
CAN 1 of 2026**

**Sourav Nath
Vs.
Union of India & Ors.**

*Mr. Debasish Kundu,
Mr. Sudepto Kumar Basu*

...for the Appellant.

*Mr. Ranjan Kumar Sinha,
Mr. Saunak Ghosh*

...for the Union of India.

1. Affidavit of service filed by the appellant is taken on record.
2. The present Intra Court Appeal arises out of judgment dated 15.01.2026 rejecting the petitioner's writ petition.
3. Heard the learned advocate for the appellant and the learned advocate for the respondents.
4. The writ petitioner participated in a recruitment process for appointment as a Constable (General Duty) under the Central Armed Police Force. He emerged successful in the initial rounds and thereafter participated in the Detailed Medical Examination (DME) and Review Medical Examination (RME). The RME was conducted on 01.12.2025 wherein the DME's finding that he was diagnosed with bow legs was affirmed.

5. The writ petitioner approached the Writ Court contending that the findings of the medical examination of the petitioner conducted one year prior thereto, in the earlier recruitment process wherein he was assessed to be having mild bow legs, be relied upon. He further relied upon a medical report dated 09.12.2025 issued by the College of Medicine and JNM Hospital, Kalyani, Nadia, wherein he was found fit.
6. Learned Advocate for the writ petitioner/ appellant thus submits that the findings of RME that the petitioner was unfit on the ground of being diagnosed with bow legs, is unsustainable.
7. Learned Advocate for the appellant has handed over a photocopy of an order passed by the Hon'ble Supreme Court of India in the case of ***Divyanshu Singh –Vs.- The Union of India & ors.*** arising out of ***SLP(C) No. 13758 of 2025*** to submit that under similar circumstances the Hon'ble Apex Court was of the view that the candidate should be examined afresh; and relying on the fresh examination by the premiere institute of the country, AIIMS, order was passed in favour of the appellant therein.
8. The learned advocate for the Union of India on the other hand has opposed the submissions. He submitted that the report of the JNM hospital dated 09.12.2025 did not indicate whether the petitioner's intercondylar distance at knee was more or less than 7 c.m.

9. We find from the averments made in the supplementary affidavit filed by the writ petitioner before the writ court that he on his own went to JNM Hospital on 09.12.2025 for medical check-up. The OPD patient card of the petitioner is also annexed. The same contains an opinion that he is medically fit. The petitioner was not examined or assessed to ascertain the condition of having bow legs as diagnosed by the DME and RME. The OPD card does not even mention the Intercondylar distance. The report of the hospital dated 09.12.2025, therefore, in our opinion does not help the petitioner's case.
10. The learned advocate for the appellant, has also drawn our attention to the report of the medical examination conducted in the earlier recruitment process conducted in 2024. From perusal of the same, it appears that therein also the writ petitioner was diagnosed with mild bow legs; and a finding was recorded that the intercondylar distance at knee was 7 c.m.
11. In the present recruitment process the writ petitioner/ appellant was found to be having intercondylar distance at knee more than 7 cm and, therefore, diagnosed with bow legs; and considered physically unfit for the recruitment-in-question.
12. The submission relying on the measurement in the earlier recruitment process gives rise to many issues. The first issue would be, whether having regard to the thin margin of difference between the measurement in

the 2024 recruitment process, and the present recruitment process, which of the two measurements are to be preferred. In this connection, we find force in the submission of the learned Advocate for the Union of India relying upon a decision of the co-ordinate Bench in the case of ***Harun Miah vs. Union of India (FMA 964 of 2025)*** dated 11.09.2025. The co-ordinate Bench held that the measurement taken at the time of the recruitment process in question is important and relevant.

13. We have given our anxious consideration to the submission of learned Advocate for the appellant and further observe that there is a possibility that the measurement of the intercondylar distance at knee in the earlier recruitment process was measured as 7 cms due to various reasons, including a *bona fide* variance in the perception of the person conducting the measurement in the earlier recruitment process, or a human error. The earlier recruitment process is concluded and, therefore, now there is no occasion and scope for reopening the issue regarding the accuracy of the measurement of intercondylar distance at knee in the 2024 recruitment process.
14. Insofar as the measurement in the current recruitment process is concerned, we find that the petitioner/appellant has not made any allegation of the measurement in the present recruitment process being vitiated on the ground of *mala fide* or any other

plausible reason. We, therefore, find no basis to ignore the measurement done in the present recruitment process by a body of experts in an All India Recruitment Process conducted by applying uniform standards.

15. This Court exercising jurisdiction under Article 226 of the Constitution of India, normally does not substitute its own opinion over the opinion of such experts in a writ proceeding. Therefore, there is no basis for this Court to proceed on a presumption regarding the measurement done in the earlier recruitment process being sacrosanct so as to give a go-by to the measurement done in the present recruitment process.
16. There is another aspect which has weighed in our minds being a possibility of the negligible variation in the measurement being as a result of variable routine factors such as a further degradation in the condition, etc.
17. In an appropriate case, if the candidate is able to establish *mala fide* against him in the current recruitment process, or any other violation as regards the procedure for taking measurement, there may be an occasion for the Court to rely upon the variance with the measurement in an earlier recruitment process, and the present one to pass appropriate orders for reassessment or as deemed fit. In the present case, however, there is no basis whatsoever to disbelieve the petitioner's measurement of intercondylar distance at knee to be more than 7 cms., so as to hold the petitioner

to be unfit on the ground of bow legs. There is no occasion for this Court to enter into an exercise of re-appreciation of the measurement, based on a comparison with the measurement done in the earlier recruitment process as if the writ Court was sitting in the appeal over the decision of the RME.

18. Insofar as the judgment of the Hon'ble Apex Court relied upon by the writ petitioner, we find that in the said case appellant/ candidate therein was found to be disqualified on account of a diagnosis that he was suffering with '*glaucoma*'. Immediately thereafter the candidate has got himself examined by the premiere institute of the country, namely the AIIMS Delhi which found the appellant therein to be fit. Relying upon the report of the AIIMS the writ petitioner approached the Writ Court. Such report was relied upon by the Hon'ble Apex Court to direct for a re-examination. Therefore, the facts therein were essentially different. In the present case there is no report of the Country's premier Institute. The OPD card of JNM Hospital relied upon also does not discredit the consistent finding of the DME and RME that the petitioner was suffering with bow legs.
19. We also find that the order relied upon in the case of ***Divyanshu Singh (supra)*** was an order passed in the unique facts and circumstances of that case. The petitioner, therefore, cannot be permitted to take any advantage of such finding.

20. We find no reason to interfere with the order of the Writ Court.
21. The appeal is dismissed.
22. Pending application is also dismissed.
23. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)