(2022) 01 GAU CK 0003

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 4821 Of 2020

Anil Yadav — APPELLANT

Vs

Union Of India And 4 Ors — RESPONDENT

Date of Decision : 04-01-2022

Acts Referred:
Constitution Of India, 1950 — Article 226

Citation : (2022) 01 GAU CK 0003

Hon'ble Judges : Kalyan Rai Surana, J

Bench : Single Bench

Advocate : R. Bora, B. Deka, S.S. Roy

Final Decision : Dismissed

Judgement

1) Heard Mr. R. Bora, learned counsel for the petitioner, Mr. B. Deka, learned Central Government Counsel for the respondent nos. 1 to 4 and Mr.

S.S. Roy, learned Government Advocate for respondent no. 5.

2) The petitioner had participated in the â??Constables (GD) in Central Armed Police Forces (CAPFs), NIA and SSF and Rifleman (GD) in Assam

Rifles (AR) Examination, 2018â?, pursuant to advertisement published in Employment News, 21-27 July, 2018 edition. The petitioner qualified in the

written test and was thereafter called for Medical Test and as per Medical Test Report dated 23.01.2020, the petitioner was declared unfit.

Thereafter, for the purpose of filing appeal against medical unfitness, the petitioner got himself examined in Diphu Medical College & Hospital at the

Department of Ophthalmology, and the Registrar of the said Department as well as the Senior Medical & Health Officer (ENT Specialist) of the said

Diphu Medical College & Hospital considered the three grounds of declaring the petitioner as medically unfit, issued a â??medical fitness

certificateâ? dated 29.01.2020 in the prescribed Form No. 3 CAPFs Constable (GD)- 2018, thereby declaring to the following effect that â?" â??(1)

Colour Vision is within normal limit; (2) Intercondylar/Intermalleolar distance is within physiological limit and will not cause any impact in carrying out

normal physical activity; (3) Wax cleaned & ears found to be normalâ?. Armed with the said certificate, the petitioner preferred an appeal against

medical unfitness, and the Review Medical Examination (RME for short) was held on 08.10.2020. However, in the RME, while the Colour Vision and

Ear was found in favour of the petitioner, but by giving a finding to the effect that â??Gross knock knee IMD more than 5 cm, the petitioner was

again declared unfit on account of â??Knock kneeâ?. Accordingly, the petitioner has filed this writ petition under Article 226 of the Constitution of

India and has prayed for a direction for having the petitioner re-examined by a medical board consisting of specialists or State Medical Board and/or to

direct the respondent authorities to appoint the petitioner as Constable (GD) in Central Armed Police Forces (CAPFs), NIA and SSF and Rifleman

(GD) in Assam Rifles (AR).

3) Assailing the finding of the Medical Test and RME declaring the petitioner to be medically unfit on account of knock-knee, the learned counsel for

the petitioner has submitted that subsequent to the RME, the petitioner had got himself examined by Deyâ??s Nursing Home, Hojai as well as in the

Gauhati Medical College & Hospital and his knock knee was found to be under normal limits. Accordingly, it is submitted that the petitioner had not

only suffered discrimination by the respondent authorities but his case was not properly considered and that the RME was perfunctorily conducted

with a view to reject the candidature of the petitioner. It is submitted that as the medical reports of the petitioner as given by Doctors of two Medical

College and Hospitals in the State of Assam is poles apart from the one given by recruitment medical examination and RME, this is a fit and proper

case for the Court to issue a direction for a re-examination of the case of the petitioner for ascertaining if he is actually suffering from any knock-

knee. In support of his submissions, the learned counsel for the petitioner has placed reliance on the following cases, viz., (i) Baikuntha Rajbongshi v.

Union of India & Ors., (2008) 4 GLR 424: 2018 Legal Eagle (Gau) 243, and (ii) Devinder v. Border Security Force & Anr., W.P.(C) 8130/2011

decided on 18.11.2011.

4) Per contra, the learned CGC has submitted that the Medical Fitness Test as well as Review Medical Examination are based on â??Guidelines for

recruitment medical examination in CAPFs and Assam Riflesâ?, revised as on May, 2015, which lays down the procedure for examination for

â??knock-kneeâ? deformity. By producing the original record of the Estt. Recruitment Branch (Rectt Cell) of the Frontier HQ BSF Guwahati,

bearing File No. Ghty/Estt (rectt)/0737 pertaining to the petitioner, it is submitted that apart from other materials, it also contains the photograph of the

petitioner taken on 08.10.2020 at the time of his RME, which clearly discloses that the petitioner had knock knee, as the distance between two ankles

was more than the scale of 5 cms. and it is submitted that the same was clinching evidence. Accordingly, it is submitted that as the knock knee

deformity of the petitioner was more than 5 cms., no wrong was committed by the authorities to declare him to be medically unfit because of knock-

knee.

5) The learned Government Advocate submits that he is a mere formal party in this writ petition and has nothing to submit and that his presence is

only to safeguard the interest of the State.

6) Upon hearing the learned counsel for the parties, perused the writ petition, affidavit-in-opposition and original recruitment record of the petitioner.

7) In this case, the empirical data of the extent of the knock-knee deformity of the petitioner, which in medical term is referred as â??Genu valgusâ?,

is not available in (i) â??Detailed Medical Examination in Form No.1â? dated 23.01.2020 (Annexure-E), (ii) medical fitness certificate dated

29.01.2020 (Annexure-F), which is the certificate issued in Form No. 3 by the Diphu Medical College & Hospital, and (iii) Medical Certificate dated

11.10.2020 (Annexure-J), but the empirical data is available in (a) RME Report dated 08.10.2020 (Annexure-I) mentioning that IMD more than 5 cm,

and (b) Radiological Report dated 20.10.2020 (Annexure-K) mentioning that â?? Right tibiofemoral angle-6.5 degree; Left tibiofemoral angle- 6.12

degreeâ?, and (c) Medical Certificate dated 20.10.2020 issued by the Registrar, Department of Orthopedics, Guwahati Medical College & Hospital

(part of Annexure-K), where it has been mentioned that â??Tibiofemoral angle of both right (6.05o) and left (6.12o)â?, as per the X-Ray, lower limb

is within normal limitâ??.

8) In the quest to understand the tibiofemoral angular, perused a medical text-book available in the internet, named, â??The Measurement and

Analysis of Axial Deformity at the Kneeâ? written by Kenneth A. Krackow, M.D., Clinical Director, Department of Orthopaedic Surgery, Kaledia

Health System, Buffalo General Hospital, Professor and Full Time Faculty, State University of New York at Buffalo, Department of Orthopaedic

Surgery, which is published by Homer Stryker Centre (Copyright @ 2008 Stryker), wherein at page 10, the tibiofemoral bone diagrams are given and

it has been explained that â??If normal is assumed to be 6o (six degree) valgus, the deformity is 14o (fourteen degree) valgusâ??.

9) Therefore, the RME appears to be in consonance with the X-Ray Report and Medical Certificate issued by the Guwahati Medical College and

Hospital. The print-out of photograph of the petitioner which is available in the record produced by the learned CGC appearing for the respondent nos.

1 to 4 gives a prima facie visual impression that the internal malleolar distance is more than the 05 cm scale.

10) It would be relevant to extract para-9(IX)(2)(i) of the â??Guidelines for recruitment medical examination in CAPFs and Assam Rifles, revised as

on May, 2015â??, which is as follows:-

â??(i) Knock Knee:

A separation of internal malleoli of over 5 cms will be a disqualification.

Deformities of knee joint

How to examine knock knee-

The Candidate is made to stand with the internal malleoli approximated and look for any over-riding of both the knees. To confirm, the

candidate is asked to lie down on examination table with patellae facing towards ceiling, vertically up and straight. One of the lower limbs

is lifted up to approximate with the medical condyle opposite site. The distance between the internal malleoli is then measured with the help

of a 05 cm long wooden block. The reading more than 05 cm is a cause of rejection as knock Knee. In case of female candidates, the

maximum permissible inter-malleolar distance is 08 cm.

The same test can be done with the body sitting upright on a chair, the legs fully

extended in front & knees just touching (passively, with the

help of the assistant).â??

11) In the case of Devinder (supra), the Delhi High Court had ordered another medical examination in the absence of any empirical data, which is not

the fact of the present case in hand. In the case of Baikuntha Rajbongshi, this Court had ordered re-examination of the writ petitioner by a team of an

Orthopaedic Surgeon and ENT Surgeon either from the Medical College/ Civil Hospital/ specified doctors of the force. With all due respect to the said

cases, the said cases would not be applicable in this present case, as the X-Ray Report and Medical Certificate dated 20.10.2020 issued by the

GMCH (Annexure-K) provides the requisite empirical data regarding existence of â??Right tibiofemoral angle-6.5 degree; Left tibiofemoral angle-

6.12 degreeâ?. At the cost of repetition, it is reiterated that the photograph of the petitioner as available in the original record produced by the learned

CGC deformity gives a prima facie visual impression that the internal malleolar distance is more than the 05 cm scale, which is the cause of rejection

of the candidature of the petitioner for the post of â??Constables (GD) in Central Armed Police Forces (CAPFs), NIA and SSF and Rifleman (GD)

in Assam Rifles (AR).

12) In light of the discussions above, this writ petition fails and the same is dismissed. However, the parties are left to bear their own cost.

