

Serial No. 01
Supplementary List



HIGH COURT OF MEGHALAYA
AT SHILLONG

WP (C) No. 316/2020 with
MC (WPC) No. 163/2020

Reserved on: 04.03.2024
Pronounced on: 05.04.2024

Shri. Munna Singh

-VS-

1. Union of India
Represented by Secretary,
Ministry of Home Affairs, New Delhi.
2. The Brigadier (Personnel)
Appellate Authority for DME CT (GD) Exam 2018 ARC & MC,
Laitkor Centre HQ DGAR,
Recruitment Branch, East Khasi Hills,
Laitkor, Shillong – 793010
3. The Presiding Officer,
Assam Rifles Construction and
Maintenance Company, Laitkor,
Shillong, Meghalaya.
4. Staff Selection Commission,
Block No. 12, CGO-Complex,
Lodhi Road, New Delhi 110003.

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice

Appearance:

For the Petitioner : Mr. A.S. Siddiqui, Sr. Adv. with
Ms. A. Kharmyndai, Adv.

For the Respondent(s) : Dr. N. Mozika, DSG with
Ms. A. Pradhan, Adv.

sd/-

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| i) | Whether approved for reporting in Law journals etc.: | Yes |
| ii) | Whether approved for publication in press: | Yes |
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ORDER

(Made by Hon'ble, the Chief Justice)

This Writ Petition has been filed for a direction to the respondents to appoint the petitioner for the post of Constable (GD) in CAPFs and Rifleman in Assam Rifles.

2. The case of the petitioner was that he had completed 12th standard and had applied for the post of Constable (GD) in Central Armed Police Forces (CAPFs) and Rifleman (GD) in Assam Rifles. The Registration Number that was allotted to the petitioner by the Recruitment Authority was 71000298574 and he was qualified in the selection, subject to successful completion of medical examination. The further case of the petitioner was that on 03.02.2020, he was subjected to medical examination at Laitkor, Shillong and a report dated 11.02.2020 was submitted to the effect that the petitioner was found unfit for the following reasons:

1. Deviated Nasal Septum Right
2. Chronic Suppurative Otitis Media Right Ear.

Sd/-



3. It was also the case of the petitioner that he, being not satisfied with the report dated 11.02.2020 subjected himself for a medical check-up at Civil Hospital, Shillong, wherein it was certified on 12.02.2020 that there was an error in the declaration of medical unfit report dated 11.02.2020 for the following reasons:

1. Deviated septum can be corrected
2. No Suppurative of Ears; Be The intact.

4. It was submitted by the petitioner that after due consultation with the ENT specialist of the Civil Hospital, Shillong, he made an appeal to the authority, praying to review the medical report of the Medical Board, which has been negated by the Review Medical Board, by observing as follows:

1. DNS (R) – Is not Symtomatic and Patency is (N)
2. CSOM (R) – Has been connected Neo Tympanic Membrane is intact and hearing sensitively which in Pure Tone Audiometry (PTA).

5. It was also submitted by the petitioner that the rejection of his appointment on the basis of the Medical Report obtained from NEIGRIHMS is arbitrary and that the petitioner is entitled to be appointed in the post of Constable (GD) in CAPFs and Rifleman in Assam Rifles. According to him, the report is highly misconceived and the action of the respondents is in violation of Articles 14, 16 and 21 of the Constitution of India.

sd/-



6. Per contra, learned DSG appearing for the respondents contended that the petitioner is bound by the guidelines, based on which he had applied for the post and the same cannot be questioned in case of any contravention found on the part of the petitioner. That apart only at the request of the petitioner, he was sent to the Medical Board for examination and that the Medical Report is final. Court cannot sit over the expert opinion of the Medical Board, unless there is a violation or any malafide intention. There are different tables mentioned in the guidelines and the same are extracted herein below:

S.No.	Category	Details of cases covered under category.	Category wise composition of Review Medical Boards	Remarks
1.	Category 'A' & 'B'	Visual acuity with other deformities	As per directions of ADG Medical, CAPFs & AR.	-
2.	Category 'C'	All cases except visual acuity	03 GDMOs	<u>01 LMO to be co-opted in case of Female candidates.</u> if there is no female doctor in Review Medical Board composition.

38	BSF INDORE	CSWT BSF, Indore, Bijasan Road, Near Airport, Indore, Madhya Pradesh-05	14/09/2020 to 05/10/2020 Reserve 06-10/10/2020
39	CRPF BHOPAL	GC CRPF Bangrasia, Taluk Huzur, Distt-Bhopal (MP) 462045	14/09/2020 to 01/10/2020 Reserve 03-08/10/2020
40	ITBP SHIVPURI	Telecom Bn, ITBPF, P.O. Shivpuri, Distt-Shivpuri, M.P-473551	14/09/2020 to 10/10/2020 Reserve 12-16/10/2020



CENTRE/BOARD WISE SUMMAY FOR RME OF CT/GD EXAM-2018

FORCE	CATEGORY-A&B		CATEGORY-C	
	No. of Centre	No. of Boards	No. of Centre	No. of Boards

Sd/-

AR	0	0	4	4
BSF	5	5	11	11
CRPF	5	5	11	12
ITBP	1	1	7	7
SSB	0	0	5	5
CISF	0	0	1	1
Total	11	11	39	40

7. Learned DSG appearing for the respondents further contended that as the petitioner sought appointment as Constable, he must be fully fit enough and there should not be any hearing impairment. Hence, it was prayed that the prayer sought for by the petitioner needs to be rejected.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. The petitioner, having studied upto 12th standard, had applied for the post of Constable (GD) in CAPFs and Rifleman in Assam Rifles, pursuant to the advertisement issued by the respondents. Though he was successful in the selection, after medical examination, Doctors opined on 11.02.2020 that he is unfit on account of his hearing impairment. On the very next day, the petitioner, on his own went to the Civil Hospital, Shillong and obtained a

Sd/-

report from the Doctor to the effect that he is fit for the job, owing to which, he made a representation for review of the report, which stood rejected by the Review Medical Board as stated supra. Though the petitioner has not challenged the guidelines, this Court has recently interfered with the guidelines in WP(C) No. 410 of 2019, dated 15.03.2024, insofar as Clause No.67 is concerned on the ground of discrimination / application of different yard sticks between Doctors and Nurses, which is not the case herein.

10. First of all, the petitioner has not challenged the guidelines and that apart, the Writ Petition needs to be dismissed on the main ground that Medical Board had opined that he has hearing impairment. A Constable with hearing loss cannot be construed to be fit enough to hold the said post and even though different opinions have been given by the Doctors in respect of his hearing defect, the opinion rendered by the Medical Board alone will prevail in this case. The petitioner has stated that no final order has been passed, he is aware that the selection process is over and the Medical Board has also certified as to his fitness, holding that he is not fit for appointment due to his hearing impairment.

11. Considering the facts and circumstances of the case, in my



Sd/-

considered opinion, this Court cannot sit over the medical opinion offered by a Doctor / Medical Board, so as to come to a different conclusion. Hence, the petitioner is not entitled to the relief sought for in this Writ Petition, which is liable to be dismissed.

12. W.P(C) No. 316 of 2020 is dismissed as devoid of merits.

13. MC (WPC) No.163 of 2020 is disposed of.

SK Sd/-
(S. Vaidyanathan)
Chief Justice

Meghalaya
05.04.2024
"Tiprilynti-PS"

PRE-DELIVERY ORDER IN
W.P(C) No. 316 of 2020 with
MC (WPC) No. 163 of 2020



True Copy
Sd/- 08/04/24
Asstt. Registrar
The High Court of Meghalaya
a Shillong