

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

O.A. No. 260/0033 OF 2021

CORAM:

THE HON'BLE MR. SWARUP KUMAR MISHRA, MEMBER(J)
THE HON'BLE MR.T.JACOB, MEMBER (ADMN.)

Jyotishman Chandan, aged about 26 years, S/o.Amar Singh Chandan,
At-Gatabandh, Po. Dhansara, PS. Kaksara, Dist. Kalahandi.

.....Applicant

Through Legal practitioner :M/s.J.K.Lenka,P.K.Behera,P.Das,
A.Mishra, Counsel

-Versus-

1. Central Reserve Police Force (Recruitment Branch), represented through the Director General, East Block-07, Level04, Sector-01, R.K.Puram, New Delhi-110066.
2. Recruitment Board, GC, CRPF, Bhubaneswar, represented through its Member, Bhubaneswar, Dist. Khurda, Odisha.
3. Dy. Inspector General (DIG), CISF, KRTC, Mundali, At/Po. Mundali, Dist. Cuttack0754 013, Odisha.
4. S.R.Commandant/Chairman, Recruitment Board, CT/GD-2018 for DME, CISF SEZ-II, HDRS, Mundali, At/Po. Mundali, District-Cuttack, Odisha.
5. Review Medical Examination Board represented through its Member, GC, CRPF, Bhubaneswar, Dist. Khurda, Odisha.

.....Respondents

Through Legal practitioner :Mr.G.R.Verma, Counsel

Reserved on:02/02/2021

Pronounced on: 12/05/2021

O R D E R

MR.SWARUP KUMAR MISHRA, MEMJBER (JUDL.)

The case of Applicant in nut shell is that the Staff Selection Commission issued notice, under Annexure-A/1, inviting applications for recruitment to the posts of Constable (General Duty) in Border Security Force (BSF), Central Industrial Security Force (CISF), Central Reserve

Police Force (CRPF), Indo Tibetan Boarder Police (ITBP), Sashastra Seema Bal (SSB), National Investigation Agency (NIA) and Secretariat Security Force (SSF) and Rifleman (General Duty) in Assam Rifles. In response thereto, Applicant submitted his application for the post of Constable (GD) in CAPF. He appeared at the Written Test conducted on 08/03/2019 and PET & PST tests on 05/09/2019. However, in the medical test the Applicant was declared unfit on account of 'Cardiac Murmur' as is evident from the medical certificate placed at Annexure-A/12. Being aggrieved by the said medical report declaring him unfit due to 'Cardiac Murmur', the Applicant has filed this Original Application u/s.19 of the A.T. Act, 1985 with prayer to quash the Medical report dated 21/10/2020 at Annexure-A/12 and to direct the Respondents to give him appointment to the post of Constable (GD) in CAPF as per advertisement under Annexure-A/1 with effect from the date other eligible candidates were given appointment with all service & financial benefits.

2. At the outset, Mr.G.R.Verma, Learned Senior Standing Counsel appearing for the Respondents submitted that the subject matter of this OA being recruitment and selection to an armed force of the Union, in terms of the provision of Section 2 of the A.T. Act, 1985 this OA is not maintainable before the Tribunal. In order to buttress his stand, Mr.Verma, Learned Counsel has placed reliance on the orders of this Bench dated 28/06/2017 in OA No. 254/2017 (P.Ekka v D/O Home Affairs) and dated 21/01/2021 in OA No. 478 of 2020 (Bijay Naik vs Staff Selection Commission) and accordingly prayed for dismissal of this OA being not maintainable before the Tribunal.

3. On the other hand, Learned Counsel for the Applicant submitted that as the matter concerning recruitment to the service of Union through direct recruitment conducted by SSC, the Tribunal has jurisdiction to entertain the O.A.

4. We have heard learned counsel for both sides and perused the records vis-à-vis the relevant provision of the A.T. Act, 1985 and the orders cited by Mr.Verma.

5. Section 2(a) of the A.T. Act, 1985 excludes entertaining application with regard to condition of service or recruitment of any member of the naval, military or air forces or of any other Armed Forces of the Union. It is seen that entertaining applications pertaining to the aforesaid service came up for consideration before the Hon'ble High Court of Allahabad in the case of Satya Narain Tiwari v Staff Selection Commission (Central Zone) and the Hon'ble High Court in W.P No. 19835/2012, dated 10/05/2012, as per the provision of Section 2(a) entertained the Writ Petition for consideration on merit. The Full Bench of the Tribunal in OA No. 2478/91 dated 05/02/1992 (Satendra Narain Pandey v Union of India & Ors held that the Tribunal lacks jurisdiction to entertain application with regard to condition of service or recruitment of any member of the naval, military or air forces or of any other Armed Forces of the Union. By applying the law laid down in the aforesaid cases so also the provision in sec 2(a) of the A.T. Act dismissed OA No. 254 of 2017 filed by Shri P.Ekka vs D/O Home Affairs vide order dated 28/06/2017 and OA No. 21/01/2021 filed by Shri Bijay Naik vs Staff Selection Commission vide order dated 21/01/2021. We do not find any

distinction between the facts of the earlier OAs vis-à-vis the case in hand.

Accordingly, this OA stands dismissed on the ground of lack of jurisdiction.

There shall be no order as to costs.

(T.JACOB)
MEMBER (ADMN.)

(SWARUP KUMAR MISHRA)
MEMBER (JUDICIAL)

Sadish/CM