



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 19762/2023

Sukh Ram S/o Shri Satpal, Aged About 21 Years, Resident Of
Ward No. 1, Vpo Jeevandesar, Tehsil Padampur District Sri
Ganganagar.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Secretary, Department Of
Elementary Education, Govt. Of Rajasthan, Secretariat,
Jaipur.
2. Director, Elementary Education, Rajasthan, Bikaner.
3. Chief Executive Officer, Zila Parishad, Hanumangarh.
4. District Education Officer, Headquarter Elementary
Education, Hanumangarh.
5. Rajasthan Staff Selection Board, Rajasthan Agriculture
Institute Premises, Durgapura, Jaipur Through Its
Secretary.

-----Respondents

For Petitioner(s) : Mr. R.S. Choudhary.
For Respondent(s) : Mr. Pankaj Sharma, AAG with
Mr. Dhairyaditya Rathore and Mr. Rishi
Soni.
Mr. Vinit Sanadhya.

HON'BLE MR. JUSTICE ARUN MONGA
Order

12/01/2024

1. Grievance of the petitioner herein arises out of a medical
certificate / opinion dated 16.9.2023 (Annex.14) issued by the
Medical Board, whereby, he has been certified with 18 to 20%
disability as against his claim of being 48%.
2. The crux of the controversy revolves around whether the
certificate issued by the Chief Medical and Health Officer,
Suratgarh, dated 06.10.2011 (Annex.3), certifying that the
petitioner suffers from a 40% disability in his leg due to post-
traumatic loss of power, should take precedence over the opinion
of the Medical Board constituted by the Recruitment Agency. This
Board was tasked with verifying the certificates of candidates who



applied under the Specially Abled category, submitting medical certificates supporting their claims.

3. Relying on a prior certificate, the petitioner approached the Chief Medical & Health Officer of District Sriganganagar, authorized to issue physical impairment/disability certificates. Subsequently, on 29.11.2017, the competent officer certified (Annex.3) that the petitioner suffers from a Locomotor Disability in his right limb due to post-traumatic reasons, to the extent of 48%. This certificate was submitted along with the petitioner's application form, as was the case with other candidates who submitted their medical certificates.

4. To scrutinize the candidates' claims, the Recruitment Agency constituted a Medical Board on 16.09.2023 (Annex.13). This Board comprised four specialists: Dr. Vikas Choudhary (Orthopedic), Dr. K.L. Kilaniya (Ophthalmologist), Dr. Rajesh Yadav (Neurology Physician), and Dr. Dalip Yadav (E.N.T).

5. The Medical Board, after examining the petitioner, found that the disability had been incorrectly certified by the earlier physician. Consequently, a certificate dated 16.09.2023 (Annex.14) was issued, and accordingly, the said certificate was not given any credence. The Medical Board opined in certificate (Annex.14) that the petitioner, in fact, suffers from a disability of 18 to 20% in his right ankle due to post-traumatic reasons, resulting in certain ankle stiffness. Hence, the petition assails the rejection of the application for the post in question based on the assessment made by the Medical Board.

6. Heard.





7. It is pertinent to note that the petitioner does not allege hostile discrimination, as the Medical Board was not specifically formed for him but for the entire category of candidates seeking benefits under the Specially Abled classification. Nor is it the case of the petitioner that he suffers from any physical disability caused by either deformity in the bone and/or shortening of the leg and/or any other permanent disability of that kind.

8. The entire emphasis in course of arguments by learned counsel for the petitioner is on the prior certificate issued by the CMHO, a person competent to do so. However, perusal of the certificate (Annex.3) issued by the CMHO does not inspire confidence as neither does it mention the name of the physician nor his specialty. It is also not clear what his competency was to certify that the petitioner suffers from a 48% disability, which seems to have been the basis for the similar certificate issued by the Chief Medical & Health Officer.

9. Even if the certificate (Annex.3) issued by CMHO were to be believed, it cannot be given precedence over the opinion of the Medical Board, comprising of specialists in their streams, which was constituted for the entire set of candidates and not solely for the petitioner.

10. Be that as it may, it is not for this Court to sit in appeal over the opinion of a Specialist (Orthopedics) who was a member of the Medical Board constituted by the Recruitment Agency. Unless it were a case of malafide, which, clearly it is not, this Court would refrain from interfering in the opinion of the domain experts, as it





is best left to them. It is not for this Court to apply its discretion and substitute the same over that of an expert.

11. As an upshot of the discussion, the petition is devoid of merits and deserves dismissal.

12. Dismissed accordingly.

(ARUN MONGA),J

37-Sumit/-

Whether Fit for Reporting: Yes / No

