



2026:AHC:45521

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 3100 of 2026

Krishna Kumar Gupta

.....Petitioner(s)

Versus

Union Of India And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ashok Kumar Srivastava
Counsel for Respondent(s)	:	A.S.G.I., Sudarshan Singh

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Ashok Kumar Srivastava, learned counsel for the writ petitioner as well as Sri Sudarshan Singh, who appears for Respondent Nos. 1 and 2.

2. The present writ petition has been preferred seeking following reliefs:-

"i. Issue a writ, order or direction in the nature of certiorari to quash the impugned order dated 06.05.2024 and direct the respondent to consider appointment of the petitioner on the post of clerk.

ii. Issue a writ, order or direction in the nature of mandamus directing the Respondents to allow the petitioner to join duty in the Army as clerk the post on which the petitioner applied and was illegally denied appointment.

iii. Issue any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

3. Sri Sudarshan Singh has produced before this Court the order passed in Writ-A No.13539 of 2024, *Krishna Kumar Gupta vs. Union of India and others* decided on 11.12.2024 and the order passed in Special Appeal Defective No. 92 of 2025, *Krishna Kumar Gupta vs. Union of India and others* decided on 30.04.2025, wherein self same order dated 06.05.2024 was subject matter of challenge and the writ petition and Special Appeal came to be rejected.

4. Confronted with the said situation, learned counsel for the writ petitioner seeks to withdraw the present writ petition.

5. I have heard the submissions so made across the Bar and perused the records.

6. The order passed by a coordinate Bench in Writ-A No. 13539 of 2024, *Krishna Kumar Gupta vs. Union of India and others* on 11.12.2024 reads as under:-

"Heard Shri Dinesh Kumar Singh and Shri Nagendra Kumar Singh, learned counsels for the petitioner and Shri Raman Saxena, learned counsel for the respondents No. 1 and 2.

The petitioner participated in the recruitment rally conducted in North East India for enrollment as soldier (clerk)/store keeper in Kohima, Nagaland w.e.f. 18.05.2017 to 21.05.2017.

The petitioner was declared unfit on account of two disabilities namely "Malocclusion" and "Cubitus Valgus Bilateral" by the medical board. Thereafter he was referred to the review medical board. The review medical board concurred with the original findings and found the petitioner to be medically unfit.

The medical board and the review medical board passed their orders in the year 2017. The petitioner approached this Court in the year 2023 wherein directions were passed to decide the representation of the petitioner. The representation of the petitioner has been rejected by the impugned order dated 06.05.2024.

The petitioner had approached this Court in the first instance in the year 2023 i.e. six years after the recruitment was conducted. The mere fact that the writ petition had been entertained and a direction was passed to consider the representation of the petitioner does not condone the delay or vest any rights in the petitioner. The writ petition is liable to be dismissed on the ground of delay and laches alone. However, in the interest of justice, the matter is being decided on merits as well.

The impugned order records that the aforesaid opinion of the medical board and the review medical board declaring the petitioner medically unfit is just and lawful. The impugned order is supported by reasons.

The medical board and the review medical board are expert bodies composed of medical professionals with expertise and experience. The findings of the medical board and review medical board in the instant case are well reasoned.

The medical boards set up by the Indian Army possess the wherewithal for carrying out the necessary medical examinations. The writ petition does not disclose any challenge to the expertise or the availability of wherewithal with the medical boards.

The Court cannot substitute the findings of the medical boards with its opinion. Moreover, no perversity in the aforesaid findings has been pointed out on behalf of the

petitioner.

In the wake of preceding discussions, no interference is warranted in the impugned orders or in the findings of the medical board or the review medical board. The writ petition is dismissed.

The Court appreciates the assistance rendered by Major Steve Barreto, OIC, Legal Cell HQ Purva UP & MP Sub Area."

7. Further a Special Appeal Defective No. 92 of 2025, *Krishna Kumar Gupta vs. Union of India and others*, came to be preferred, in which on 30.04.2025, the following order was passed:

"(Ref: Civil Misc. Delay Condonation Application No. 1 of 2025)

Heard.

Cause shown for the delay in filing of the special appeal is to the satisfaction of the Court. The delay in filing of the special appeal is condoned.

The Delay Condonation Application is, accordingly, allowed.

(Ref: Special Appeal)

Learned Single Judge has dismissed the writ petition filed in the year 2024 by the appellant questioning his non-selection on account of his having been declared medically unfit.

Undisputed facts of the case are that the appellant applied for appointment to the post of Soldier (clerk)/store keeper in Kohima at Nagaland. The recruitment process was undertaken in the year 2017. In the medical examination of the appellant initially he was found suffering from two disabilities, but in the review medical board, the only ground, on which he has been non-suited is that he was found suffering from Cubitus Valgus Bilateral. Certain representations were made thereafter to the authorities relying upon a medical certificate issued by the District Hospital at Dimapur, according to which, the appellant did not suffer from such deformity. His representation has ultimately been rejected in the year 2024. The order of the authorities rejecting the representation was thus challenged before the learned Single Judge.

Learned Single Judge has dismissed the writ petition after noticing the fact that the representation was considered pursuant to directions issued by this Court in the year 2023. At such late stage, learned Single Judge has refused to interfere in the matter, particularly when no perversity was shown in the findings of the authorities.

Learned counsel for the appellant argues that the claim of the appellant has not been accorded consideration as was expected from the authorities, inasmuch as, the

medical certificate issued by the District Hospital at Dimapur holding the appellant to be medically fit has not been taken into consideration.

Sri P.N. Rai appearing for the respondent opposes the appeal on the ground that recruitment has concluded in the year 2017 and, therefore, at this late stage no occasion arises for this Court to interfere in the matter.

From the materials placed on record, it is apparent that the appellant was found medically unfit in the year 2017. Though, it is alleged that certain representation was made, but no timely challenge was laid to the non-selection of appellant on medical grounds. It was only after six years in the year 2023 that a writ petition was filed. The authorities have considered the claim and rejected the representation. To what extent the medical deformity of Cubitus Valgus Bilateral dis-entitle the appellant to public employment in Defence Service would essentially be a matter to be examined by the experts in the field. We are not inclined to embark upon such exercise when it is otherwise found that the cause in that regard has been raised after six years. At this late stage and also for the reasons recorded by the learned Single Judge in His Lordship's judgment, we find no occasion to interfere in the matter.

The special appeal fails and, accordingly, is dismissed."

8. In para-1 of the writ petition, this much has been asserted that this is the first writ petition being preferred questioning the order dated 06.05.2024 and the affidavit has been sworn by the petitioner himself. This happens to be a very serious matter relatable to non-disclosure of the vital fact. However, bearing in mind the fact that learned counsel for the writ petitioner seeks to withdraw the present writ petition, the writ petition is **dismissed as withdrawn.**

February 27, 2026

N.S.Rathour

(Vikas Budhwar,J.)