

(2019) 10 SHI CK 0073
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 197 Of 2017

Ajay Kumar

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 30-10-2019

Acts Referred:

Citation : (2019) 10 SHI CK 0073

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Arun Kumar, Balram Sharma

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this petition, petitioner has inter alia prayed for the following substantive reliefs:-

"(i) That the respondents may kindly be directed to render him a chance to appear for medical re-examination and issue him a call letter/joining letter for training for the post of CT (DVR) with all consequential benefits.

(ii) That entire record pertaining to this case may kindly be summoned for the kind perusal of the Hon'ble Court.

(iii) Any other relief which this Hon'ble Court deem fit and proper may also be passed in favour of the petitioner and against the respondents in the interest of justice."

2. Brief facts necessary for adjudication of the present petition are that the petitioner applied for the post of CT (DVR) in terms of an advertisement, which was issued by the respondents. As per petitioner, on the receipt of a call letter, he successfully passed the test in issue, however, his candidature was rejected vide Annexure P-1, on medical ground which reads as under:-

"Chest X-ray NON HOMOGENOUS FIBERONODULAR OPACITIES"

3. Feeling aggrieved, petitioner filed an appeal against the rejection of his candidature. As he did not receive any communication/joining letter, petitioner issued a legal notice to the respondents on 07.11.2016 (Annexure P-3). In response to the same, petitioner received a reply, vide which, petitioner was intimated that his appeal already stood rejected and further there was nothing wrong in the rejection of his candidature.

4. Feeling aggrieved, petitioner has filed the present writ petition.

5. I have heard learned Counsel for the petitioner and also gone through the pleadings on record.

6. It is evident from the record that the candidature of the petitioner was rejected on the ground that the petitioner, as on the date when he was medically examined, was not found medically fit for the post of Driver. It is also borne out from the record that in the appeal which was filed by the petitioner against his rejection on medical grounds, he was again subjected to a fresh medical examination to rule out any possibility that his initial medical examination was not done properly. However, said examination also resulted in the same conclusion that the petitioner was suffering from Pulmonary Tuberculosis, which ailment required medical treatment at least for a period of six months as the disease was curable with medication, however, at the relevant time, on account of said disease, petitioner was not found fit to be appointed against the post in question.

7. Mr. Balram Sharma, learned Senior Panel Counsel, for the respondents also referred to an Office Memorandum dated 20.05.2015, which has been issued by the Ministry of Home Affairs, Government of India, alongwith which uniform guidelines for medical examination test (MET) for recruitment in CAPFs, NSG & AR are appended. A perusal of Clause 6 of the said guidelines, which deals with general grounds for rejection, indicates that diseases like tuberculosis, syphilis, or other venereal disease, rheumatoid/any type of arthritis, hypertension etc. are relevant for the purpose of rejection of a candidate on medical grounds.

8. All the above narrated facts are clear indicators that as on the date when the petitioner was medically examined for being considered for appointment against the post in issue as also on the date when he was medically re-examined in the appeal which was filed by him against Annexure P-1, petitioner was found suffering from Pulmonary Tuberculosis which rendered him unfit for being appointed against the post in issue. This Court cannot also loose sight of the fact that petitioner was seeking appointment as Driver in the Indo Tibbetean Border Police (ITBP), which is a disciplined force. Further, it is not the case of the petitioner that the rejection of his candidature by the respondents was either an act of mala fide or an act of colourable exercise of power which was done with an intent to confer benefits upon some other person.

In these circumstances, this Court is of the view that as the rejection of the candidature of the petitioner by the respondents on the ground that he was medically unfit was a valid rejection, based upon medical condition of the petitioner at the relevant time, this petition sans merit and the same is accordingly dismissed. Pending miscellaneous application(s), if any, stand disposed of. No order as to costs.