
(2018) 05 DEL CK 0223
In the Delhi High Court
Case No : W.P.(C) 3939 OF 2018

GAURAV DAHIYA

APPELLANT

Vs

STATE OF NCT DELHI & ANR

RESPONDENT

Date of Decision : 17-05-2018

Acts Referred:

Code Of Civil Procedure, 1908 — Order 1 Rule 10

Citation : (2018) 05 DEL CK 0223

Hon'ble Judges : HIMA KOHLI;PRATIBHA RANI

Bench : Division Bench

Advocate : Rishabh Relan, Dinesh Malik, Vinny Shangloo, Abha Malhotra, Naresh Kaushik

Final Decision : Dismissed

Judgement

CM No.20567/2018 (by the petitioner under Order I Rule 10 CPC)

1. Issue notice. Learned counsels for the respondents and the proposed respondent/UPSC accept notice.
2. For the reasons stated in the application, particularly in paras 3 to 5 thereof, the prayer made in the application is allowed. The UPSC is permitted to be impleaded as a co-respondent in the present petition.
3. Amended memo of parties filed along with the application is taken on record.
4. The application is disposed of.

W.P.(C) 3939/2018 and CM No.20461/2018 (for directions)

1. Though the writ petition is listed for hearing on 16.07.2018, but the petitioner had filed an application (CM No.20461/2018) on 16.05.2018, stating that there is some urgency in the matter because interviews for the post of Assistant Commandants are being conducted by the UPSC from 5th to

18th May, 2018. Since UPSC was not a party in this petition, the petitioner was granted permission to implead UPSC as a co-respondent and get it

served for today. Pursuant thereto, the impleadment application filed by the petitioner has been allowed. UPSC is duly represented by learned counsel.

2. With the consent of the parties, the hearing in the main petition is advanced for today.

3. The present petition has been filed by the petitioner praying inter alia for issuing directions to the respondent No.2/CRPF to consider his candidature for recruitment to the post of Assistant Commandant.

4. The brief facts of the case are that the respondent No.2/CRPF had issued a Notification on 12.04.2017, inviting applications for recruitment to the

post of Assistant Commandant through the CAPFs Examination, 2017. The petitioner had applied for the said examination. The written examination

for the subject post was held on 23.07.2017, which the petitioner had cleared. Later on, the petitioner was called to appear for the Physical Standard

Test (PST)/Physical Efficiency Test (PET) and Medical Standard Test (MST). When the petitioner underwent the said tests on 19.12.2017, he was

declared unfit in the MST on the grounds of Polydactyl (possessing six toes in one foot). Within one week therefrom, on 26.12.2017 the

petitioner underwent a surgery at Chauhan Hospital, Sonipat, Haryana to get the extra toe removed. Thereafter, he approached a Government hospital

i.e. Sanjay Gandhi Memorial Hospital for a medical fitness certificate that was admittedly issued to him on 30.12.2017. Armed with the said

certificate, the petitioner approached the respondents for seeking a review medical examination.

5. A communication was sent to the petitioner on 25.01.2018, calling upon him to appear before the Review Medical Board on 09.02.2018. The

petitioner was re-examined on 09.02.2018, but he was declared unfit on account of having been recently operated upon and the scar not having

healed, since he had undergone surgery a month earlier, on 26.12.2017. The Review Medical Board further observed that there is a deformity in his

left foot. After obtaining the opinion of an orthopaedic doctor, the Review Medical Board concluded that the petitioner is presently unfit.

6. The medical records of the petitioner produced by the learned counsel for the petitioner reveals that his X-ray was conducted on 09.02.2018, that

revealed a deformity in the left Instal Phalaynx 5th toe Polydactyle left foot (six toes).

7. Learned counsel for the respondents draws our attention to the advertisement dated 12.04.2017 issued by the respondents, inviting applications for

recruitment to the post of Assistant Commandant (Annexure P-1) and states that para 3 thereof lays down the eligibility conditions and stipulates in

sub-para IV, the Physical Standards that states as follows: Candidates must meet the prescribed Physical and Medical Standards for

admission to Central Armed Police Forces (Assistant Commandants), Examination, 2017 specified in Appendix-V of the Notice.

8. Further Appendix-V, enclosed with the Notice, which deals with the physical and medical standards for the candidate, stipulates in para 3, the

General Standards, the relevant extract whereof is as follows:

(3) General Standards:

xxxxxxx

e) Limbs, hands and feet should be well formed and fully developed and there shall be perfect motion of all joints. xxxxxxx

h) Feet and toes should be well formed.

i) Should not have congenital malformation or defects.

Â (Candidate must have completed 06 months after LASIK surgery while considering for recruitment in CAPFs). xxxxxxx

o) They must be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties.

9. Learned counsel for the respondents refers to the Revised Guidelines for Recruitment Medical Examination in CAPFs and Assam Rifles as on

May, 2015, issued by Ministry of Home Affairs, Government of India (in short, the Guidelines) and states that para 6 deals with the General

Grounds for Rejection and sub-para 20 thereunder stipulates that any congenital abnormality, so as to impede efficient discharge of

training/duties, will be a ground for rejection. Similarly, para XI of the Guidelines, which deals with the examination of lower extremities states in

sub-para viii (B)(b) as follows:

B. Foot and ankle xxxxxxxxx

(b) Presence of deformities of the toes (acquired or congenital, including, but not

limited to conditions such as hallux valgus, hallux varus, hallux rigidus, claw toe(s), overriding toe(s), (that prevents the proper wearing of combatised footwear or impairs walking, marching, running, or jumping, are disqualifying.â??

10. Learned counsel states that in view of the fact that admittedly, the petitioner had a â??Polydactylâ? (left foot six toes) and he had undergone

surgery for the same on 26.12.2017, his scar had yet to heal when he approached the respondent for a Review Medical Board on 09.02.2018 and it is

for the said reason that the Review Medical Board had declared him â??presently unfitâ?? on 10.02.2018.

11. Learned counsel for the petitioner rejoins by stating that the term, â??Poldactylâ? has not been specified in the Guidelines mentioned above and

the petitionerâ??s candidature has been wrongly turned down.

12. The aforesaid submission is found to be devoid of merits for the simple reason that the Guidelines themselves describe some of the deformities of

the toe with a rider that apart from the conditions described, there could be other conditions which shall be considered while examining the candidates.

13. In view of the Rule position and the medical records produced before us, we decline to grant any relief to the petitioner. The present petition is

accordingly dismissed along with the pending application.

14. Needless to state that if the petitioner applies in future for a fresh recruitment, his medical condition shall be considered at that stage, without being

influenced by the present reports. 15. The next date of hearing i.e. 26.07.2018, stands cancelled.