

(2023) 03 DEL CK 0010

In the Delhi High Court

Case No : Civil Writ Petition No. 1476 Of 2023

Jahangir Alom

APPELLANT

Vs

Union Of India And Ors.

RESPONDENT

Date of Decision : 01-03-2023

Acts Referred:

Citation : (2023) 03 DEL CK 0010

Hon'ble Judges : Suresh Kumar Kait, J;Mini Pushkarna, J

Bench : Division Bench

Advocate : Neetu Kumari, Jatin Singh, Keshav Sehgal, Kashish Bajaj, Shivam Gaur, Shubham Agarwal

Final Decision : Dismissed

Judgement

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 1476/2023 & CM APPL. 5540/2023 (stay)

3. Vide the present petition, petitioner is seeking setting aside of the impugned order dated 17.9.2022 directing the respondents to receive Third Medical Opinion from AIIMS or other reputed hospitals like Ram Manohar Lohia Hospital and in case he is found fit or his diseases are curable, he may be reinstated in service with full back wages.

4. Case of the petitioner is that petitioner was recruited as Rectt. Constable (GD) by the recruiting agency vide Appointment Letter dated 01.3.2021 and accordingly, he joined his duty on 01.4.2021. Subsequently, petitioner has reported at HTC BSF Tekanpur for undergoing basic recruit training w.e.f. 17.05.2021 to 04.04.2022 for a duration of 44 weeks and petitioner was allocated "A" Coy (BRT Batch No. 149). Petitioner was further relegated to next junior batch on medical ground due to absence from BRT in terms of order dated 08.04.2022. As per the complaint of sleeplessness of the petitioner, a proceeding

was initiated by the medical board on 16.03.2022 and thereafter, he was advised to attend Psychiatry OPD at CH BSF Tekanpur. Accordingly, petitioner reported at Psychiatry OPD CH BSF Tekanpur on 16.03.2022 with a complaint of disturbed sleep at night, low mood, crying spells and decreased interest in daily activities for 15 days. Medical board proceedings were initiated comprising with four members under the control and supervision of Dr. P.P. Dass, CMO (SG)/Med. Splt. CH Tekanpur and the opinion of Medical Board is as under:

"The board having examined no. 210802933 R/CT Jahangir Alom of STC BSF Tekanpur who is a case of "Depression" and is of the opinion that he is Unfit for Basic recruitment training and further retention in service."

5. Consequently, a show cause notice dated 31.08.2022 was issued by Inspector General, STC BSF, Tekanpur, but it was served upon the petitioner only on 17.9.2022 i.e. alongwith the order of discharge of petitioner from BSF Rolls.

6. It is admitted case of the petitioner that after his discharge from service, he did not make any request to re-examine himself. Petitioner is relying upon Certificate dated 22.11.2022 (Annexure P-5) whereby he has been declared mentally fit for work.

7. On perusal of aforesaid Certificate dated 22.11.2022 issued by Medical Officer, Tufanganj Mental Hospital, Tufanganj, Kuch Bihar wherein it is mentioned as under:

"This is to certify that Mr. Jahangir Alom, 27 years/Male, S/o Kshim Ali, Resident of Hastabud Kashal Danga. PO Patplshu PS Kotwali, Dist. Coochbohar Pin 736157 W.B. He has been suffering from Bipolar effective disorder last episode manic currently on remission. He is under my treatment for last 1 month as Psychotropic medicine. Now he is mentally fit for work."

7. In view of aforesaid observation of the Medical Officer, it seems that petitioner had bipolar disorder and based upon that he has been discharged from service.

8. As per the medical board proceedings dated 26.03.2022 which is annexed as Annexure P-3, the condition of petitioner is as under:

"7. Present condition : He is having complaint of irritable mood, occasional violent and aggressive behavior and disturbed sleep."

9. It is not in dispute that in forces only physically and mentally fit personnel are required, however, since petitioner is suffering from the diseases as mentioned above, therefore, he is not fit for service in forces.

10. Accordingly, we find no illegality and perversity in the order dated 17.09.2022 passed by the respondents. Finding no merit in the present petition, it is dismissed in limine. Pending application also stands disposed of.