
(2009) 01 RAJ CK 0007
In the Rajasthan High Court

Lokesh Chand Sharma

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 15-01-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21

Citation : (2009) 01 RAJ CK 0007

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mohammad Rafiq, J.—This writ petition has been filed by the petitioner aggrieved by action of the respondents in declaring him unfit for appointment on the post of Constable in the process of selection initiated pursuant to advertisement dt. 18.01.2003 by Superintendent of Police Bhilwara.

2. Learned Counsel for the petitioner has argued that petitioner was non suited for appointment and was declared as unfit whereas he was fully fit to be appointed on the post of Constable. Petitioner protested but he was not provided any justice. Height and chest measurement of the petitioner is in conformity with the requirement of Rule 14 of the Rajasthan Civil Service (Police Subordinate) Service Rules, 1989. According to Rule 21 of the Rules of 1989, physical fitness could be verified only after the medical examination by the medical board to be constituted by the Director General-cum-Inspector General of Police. It was contended that medical fitness could have been seen only after the selection was made and the name of the candidate was included in the select list but medical fitness could not be decided by the members of the recruitment board for the purpose of shortlisting of the candidates. Learned Counsel for the petitioner submitted that petitioner was arbitrarily excluded from the purview of consideration whereas the measurement of his height was 171.0 cm, measurement of chest deflated 81.0 cm and inflated 86.0 cm and his weight was 60.0 kg as per the certificate (Ann.3) on the basis of which, he was called for

interview. Action of the respondents declaring him medically unfit is therefore arbitrary. Reliance was placed on the judgments of this Court in *Munesh Kumar v. State and Ors.* SBCWP No. 2720/06 decided on 31.05.2006 which order was modified vide order dt. 18.07.2006 and *Rajendra Prasad Sharma v. State and Ors.* SBCWP No. 3548/98 decided on 20.12.2006. In the similar circumstances, the respondents were directed to get the medical fitness of the candidates verified through medical board and consider their cases afresh.

3. Respondents have filed reply to writ petition contending inter-alia that petitioner was not fit and there was deficit of requisite measurement of his chest.

4. Learned Counsel for the petitioner rejoined and submitted that the respondents arbitrarily excluded the petitioner from the purview of consideration because they wanted to flush out as many candidates as possible. This amounts to an hostile discrimination against the petitioner which is violative of Articles 14, 16 and 21 of the Constitution of India.

5. A perusal of the reply clearly shows that though the respondents did not find chest measurement of the petitioner as per the norms and on the basis of which he was declared unfit but the respondents are not specified in their reply as to what should be the actual measurement of the petitioner. No record was produced that actually if chest of the petitioner was measured and it indicated all the measurement of chest deflated 81.0 c.m. and inflated 86.0 c.m. As against this, petitioner made a specific averment that measurement of his chest deflated 81.0 c.m. and inflated 86.0 cm, respectively only at the time of recruitment process but also when he was subjected to such examination by the medical officer. This Court in all the aforesaid judgments in similar circumstances directed the respondents to subject the petitioners again to physical test by a duly constituted medical board and if found them physically fit, consider their case for appointment.

6. In the result, the writ petition is allowed. The respondents are directed to subject the petitioner again to physical test by a duly constituted medical board and eventually if he is found fit in chest deflated 81.0 c.m. and inflated 86.0 c.m. as per the requirement of Rule 14 of the Rules of 1989, consider his case for appointment in accordance with law.

7. Compliance of the judgment shall be made within a period of three months from the date; its copy is produced before the respondents.