

(2016) 05 RAJ CK 0155
In the Rajasthan High Court
Case No : Civil Writ Petition No.7504 of 2013

Lokesh Singhal

APPELLANT

Vs

Staff Selection Commission

RESPONDENT

Date of Decision : 26-05-2016

Acts Referred:

Citation : (2016) 2 WLCRajUC 103

Hon'ble Judges : Mr. Anupinder Singh Grewal, J.

Bench : Single Bench

Advocate : Mr. M.F. Baig, Advocate, for the Petitioner; Mr. Rajendra Prasad Sharma, Sr. Central Govt. Panel Counsel, for the Respondent Nos. 2 and 3; Mr. S.S. Hasan, Advocate, for the Respondent No. 1

Final Decision : Allowed

Judgement

Mr. Anupinder Singh Grewal, J.—The petitioner has assailed the order dated 20.03.2013 whereby the appeal of the petitioner for constitution of Review Medical Board has been rejected.

2. The petitioner had applied for the post of Sub-Inspector in Central Industrial Security Force. In response to the advertisement issued on 18.02.2012, the petitioner appeared in Paper No. 1 & 2. As the petitioner qualified in Paper 1, he was called for medical examination. The result of Paper 2 was to be declared only after the petitioner had been found medically fit. The petitioner was not found medically fit vide order dated 12.09.2012 as his vision in right eye was 6/12 instead of 6/6 as stipulated in the advertisement. The petitioner filed an appeal for review medical examination which was dispatched by Postal Authorities on 21.09.2012. No action was taken by the respondents on the appeal filed by the petitioner. The petitioner preferred S.B. Civil Writ Petition No. 2119 of 2013 before this Court which was disposed of on 07.01.2013 with a direction to the respondents to decide the appeal of the petitioner within a period of one week. The appeal of the petitioner was rejected on 20.03.2013 on the ground that it did not reach in time and it was not accompanied by a self addressed envelop.

3. Learned counsel for the petitioner has contended that as the envelop containing the appeal had been dispatched by the Postal Authorities on 21.09.2012, he could not have been penalised for the envelop not reaching the office of the respondents in time.

Per contra, learned counsel appearing for the respondents No. 2 & 3 submits that as the appeal had not reached in time and as per mandatory requirement, the self address envelop was not annexed with the appeal, it was rejected by the respondents.

4. I have heard learned counsel for the parties and perused the record.

5. Indisputably, the envelop containing the appeal filed by the petitioner had been dispatched by the Postal Authorities on 21.09.2012. The detailed track events which have been annexed as annexure-7 with the writ petition indicates that the item was dispatched on 21.09.2012 at 10.14 hours. It is also mentioned in the detailed track events that the item reached New Delhi on 23.09.2012 at 10.39 hours. However, the item was received at G.P.O New Delhi only on 25.10.2012 and was finally delivered at the destination at Lodhi Road Head Office on 26.10.2012. It is thus apparent that although the petitioner had duly booked the item for dispatch on 21.09.2012 but due to lapse on the part of the Postal Authorities it could not reach the addressee before 27.09.2012 and was delivered only on 26.10.2012.

6. Therefore, the petitioner had promptly sent the appeal and for any delay in reaching the office of the respondents, the petitioner could not be held responsible.

7. With regard to the other ground for rejection of the appeal namely it was not accompanied by a self addressed envelop, I do not find it to be a ground which would be sufficient for rejecting the appeal as all the necessary papers including the draft for an amount of Rs. 25/- had been sent by the petitioner. The petitioner had also annexed a copy of the medical fitness certificate issued by a Government Doctor, Sikar on 19.09.2012 wherein his vision in the right eye is 6/6. Instead of rejecting the appeal on hyper technical grounds, the respondents should have decided the appeal on merits especially when a coordinate Bench of this Court had issued directions on 07.01.2013 to decide the appeal.

8. In the light of the aforementioned facts and circumstances, I have no hesitation to hold that the action of the respondent No. 3 in rejecting the appeal of the petitioner is clearly unsustainable.

9. Consequently, this petition is allowed and respondent No.3 is directed to constitute a Medical Board for review medical examination of the petitioner. In case, the petitioner is found to be medically fit then his candidature for appointment to the post of Sub Inspector shall be considered by the respondents. This needful shall be done within a period of three months from the date of receipt of the certified copy of the order.