
(2012) 02 DEL CK 0584

In the Delhi High Court

Case No : Writ Petition (C) No. 1148 of 2012

Monica Goswami

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 27-02-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 02 DEL CK 0584

Hon'ble Judges : Sudershan Kumar Misra, J;Anil Kumar, J

Bench : Division Bench

**Advocate : P.S. Sharma and Mr. Harsh Vardhan Surana, for the Appellant;
Ravinder Agarwal, for the Respondent**

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner has sought a direction for holding an enquiry and to verify the allegations made by the petitioner against the respondents regarding changing her result about Physical Endurance Test and disqualifying her after she was allegedly declared to have qualified the Physical Endurance Test and directions to the respondents to conduct the medical examination of the petitioner and to induct her in services.

2. Relevant facts to comprehend the disputes raised by the petitioner are that the petitioner appeared in the Central Police Organizations Examination, 2009 for appointment as Sub-Inspectors on 6th September, 2009.

3. The petitioner contended that she cleared the written test and thereafter, she was required to appear in Physical Endurance Test (PET) on 27th April, 2010 at Chandigarh. The petitioner alleged that she cleared successfully all stages of Physical Endurance Test and she was entitled to appear for medical examination.

4. The Physical Endurance Test comprised of 1.6 km race, long jump, high jump and 100 meters race. According to the petitioner, any candidate who failed in one of the task for Physical Endurance Test was not allowed to participate in the next

task.

5. The petitioner alleged that on the result sheet of the petitioner for Physical Endurance Test, the officer incharge first wrote yes, however, for the reasons neither disclosed to the petitioner and perhaps in order to favour some other candidates, called the petitioner and divulged to her that her candidature is being rejected and the result sheet of Physical Endurance Test was also changed and she was declared not qualified in Physical Endurance Test.

6. Petitioner pleaded that she requested the concerned officials not to do so as she has already qualified all the activities of Physical Endurance Test including high jump section, however, they did not change her result and declared her as not qualified in Physical Endurance Test.

7. The petitioner thereafter sent her complaint on 1st May, 2010 to DIG, ITBP, Chandigarh and also sent the complaint by post on 7th June, 2010. By communication dated 9th September, 2010 from the Under Secretary, Staff Selection Commission, the petitioner was intimated that her grievance has been referred to Director General, CRPF.

8. The petitioner contended that she received a communication dated 5th July, 2011 from the Director General informing the petitioner that she failed in long jump and, therefore, she has been disqualified. According to the petitioner this is not correct and she has challenged her disqualification on the ground that the petitioner was failed on account of bias attitude of the concerned officials who were incharge of Physical Endurance Test. The petitioner has sought that the allegations made by her be got verified and thereafter, the respondents be directed to get her medically examined and she be inducted in Central Police Organizations.

9. The learned counsel for the respondents, Mr. Ravinder Agarwal who has appeared on advance notice has referred to the letter dated 5th July, 2011 sent by Deputy Director General (Recruitment) stipulating that even as far back as on 30th August, 2010 complete information was sent to the petitioner that the petitioner was provided three opportunities in the long jump and she had not succeeded in any of the three chances provided to her. Since the petitioner could not qualify the standards laid down for long jump, therefore, she was disqualified. The letter dated 5th July, 2011 also reveals that the petitioner was given an opportunity to lodge a complaint to the appellate officer, however, the petitioner did not prefer any appeal and did not act in accordance with para 7 of the instructions which were supplied to the petitioner with regard to the result of the Physical Strength Evaluation Board.

10. This Court has heard the learned counsel for the parties and have perused the documents and the averments made by the petitioner. The petitioner has not denied that for Physical Endurance Test she was subjected to 1.6 km race, high jump, 100 meters race and long jump. The learned counsel for the petitioner has not denied that the petitioner had received the letter dated 30th August, 2010.

The copy of the letter dated 30th August, 2010 has not been produced by the petitioner. The learned counsel for the petitioner, however, has not been able to deny that by the said communication the petitioner was intimated that she could not qualify the standards laid down for Physical Endurance Test for long jump despite the fact that three opportunities were given to her.

11 Even in the writ petition filed by the petitioner, she has not disclosed the fact that the petitioner had been intimated by letter dated 30th August, 2010 that she had been disqualified in Physical Endurance Test on account of failing to qualify the long jump. The learned counsel for the petitioner admitted that the said letter was received by the petitioner, however, by inadvertence the copy of the same has not been filed by him along with the writ petition. This has not been denied that the said letter was not replied by the petitioner. In the circumstances, it is to be inferred that by the said letter dated 30th August, 2010 instructions were communicated to the petitioner contemplating that if she has any complained against the Physical Endurance Test, she could file a complaint before the appellate officer.

12. No malafides have been imputed against the concerned officials who had taken the Physical Endurance Test where the petitioner had failed to qualify the long jump. No doubt in the PET result the word 'No' was scored off and it was also written in words 'Yes' in the first row regarding whether a candidate had qualified in PET or not. The word 'Yes' was later on scored off and in place the word No has been written. In the section B it is again mentioned that the petitioner had not qualified in the long jump by ticking in front of the appropriate item. Consequently, on the basis of the PET result of 27th April, 2010 it cannot be inferred that there had been any manipulation or that the petitioner can be declared to have qualified the Physical Endurance Test. If the petitioner was aggrieved by the result of Physical Endurance Test, the petitioner ought to have filed the complaint before the appellate officer in accordance with the procedure laid down in para 7 which admittedly has not been done by the petitioner.

13. Since the petitioner was intimated that she has been disqualified in the Physical Endurance Test by communication dated 30th August, 2010, then why no complaint had been filed before the appellate authority and why the petitioner has filed the writ petition on 13th February, 2012 almost after 11/2 year has not been explained.

14. In the totality of facts and circumstances and for the foregoing reasons, the petitioner has failed to make out any grounds which will entail any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India against the decision of the respondents declaring that the petitioner had not qualified the Physical Endurance Test for the Central Police Organizations Examination, 2009 for the post of Sub Inspectors. The writ petition is without any merit and it is, therefore, dismissed.