

(2020) 08 RAJ CK 0040
In the Rajasthan High Court
Case No : Civil Writ Petition No. 16652 Of 2019

Nitin Singh Chauhan

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 24-08-2020

Acts Referred:

Citation : (2020) 08 RAJ CK 0040

Hon'ble Judges : Inderjeet Singh, J

Bench : Single Bench

Advocate : Mahendra Shah, Avinash Choudhary, Dr. V.B. Sharma, M.F. Baig

Final Decision : Allowed

Judgement

This writ petition has been filed by the petitioner with the following prayer:-

In these circumstances, it is, therefore, prayed that this Hon'ble Court may be pleased to accept this writ petition and

i) the impugned action of the respondents in not allowing exemption to humble petitioner from physical efficiency test in Sub Inspector Examination illegal and arbitrary and therefore same may kindly be quashed and set aside;

ii) the respondents may kindly be directed by issuing appropriate writ, order or direction in the nature thereof:-

(a) Respondents be directed to grant exemption from physical efficiency test for a period of one month.

(b) To conduct physical efficiency test of humble petitioner after he is medically fit and to give appointment to humble petitioner if he comes in overall merit with all consequential benefits.

iii) Any other appropriate order or direction which this Hon'ble Court deems just and proper in the facts and circumstances of this case may kindly also be passed in favour of the petitioner.

Brief facts of the case are that the petitioner applied for the post of Sub-Inspector in pursuance to advertisement dated 05.10.2016. After qualifying in the written test, the petitioner was called for physical efficiency test which was scheduled to be held on 23.09.2019. The petitioner sustained fracture in his knee on 13.09.2019 and as he was working as constable in the office of Superintendent of Police, District Karoli at the relevant point of time, therefore the Superintendent of Police, Karoli forwarded his written request to respondent No.2 for extension of time for PET/PST, vide letter dated 11.09.2019 (Annexure-10).

Counsel for the petitioner submitted that the petitioner due to his illness filed the present writ petition before this court on 25.09.2019. Counsel further submitted that the petitioner prior to date of PET/PST has duly informed the respondent about his illness. Counsel further relied on the judgment passed by the Hon'ble Supreme Court in the matter of Mahendra Pratap Singh Vs. State of Uttar Pradesh and Others reported in (2019) 13 SCC wherein it has been held as under:-

2. The appellants are candidates who participated in the selection process of Ranker Sub-Inspector conducted during 2011. According to them, they were not physically fit to participate in the physical efficiency test and yet they were compelled to participate. It is further submitted that for those who have not thus participated in the selection on account of the physical illness, the Competent Authority had issued a circular permitting them to participate on a subsequent date. Therefore, it is submitted that the candidates who have been compelled to undergo physical efficiency test despite their illness could not have been put in a worse condition.

3. Ms. Aishwarya Bhati, learned Additional Advocate General, appearing for the respondents points out that the State had taken a stand before the High Court that in the case of those who have participated without any objection could not be given a second chance.

4. We find from the penultimate paragraph of the impugned judgment that the Division Bench of the High Court has permitted for re-test in the case of those candidates who had informed about the ailment on the date of the physical efficiency test or earlier. The relevant paragraph of the impugned judgment is extracted below:-

"In view of the aforesaid discussions, we find no infirmity or illegality in the impugned judgment, which is hereby approved.

However, it is provided that in respect of Category III and Category IV candidates, benefit of the above judgment shall not be extended to the candidates, who have not informed about the ailment on the date of Physical Efficiency Test or earlier."

5. In case, the appellants had actually informed prior to the test or at the time of

test regarding their ailment they are otherwise protected by the High Court. Such of the appellants are permitted to approach the competent authority with supporting material, in which case the needful in the light of the judgment as extracted herein above will be done within another one month.

6. Therefore, no further orders are required in these appeals. The appeals are, accordingly, disposed of.

Counsel for the respondent opposed the writ petition and submitted that conducting the PET/PST requires various mechanical equipment and availing them for conducting the PET/PST for the petitioner would not be feasible for the respondents.

Heard counsel for the parties and perused the record.

This writ petition filed by the petitioner deserves to be allowed for the reasons; firstly admittedly the petitioner was not well during the relevant period when the physical efficiency test was conducted i.e. on 23.09.2019 to 27.09.2019 which is proved by documentary evidence i.e. medical record of the concerned hospital; secondly on 23.09.2019 the petitioner duly informed the respondents for giving one more chance due to his illness and lastly in view of the judgment passed in the matter of Mahendra Pratap Singh (Supra) the petitioner deserves one more chance.

In that view of the matter, the respondents are directed to re-conduct the PET/PST for the petitioner within a period of ten days from receiving of certified copy of this order and respondent No. 4 is directed to allow the petitioner provisionally in the interview and if the petitioner is found successful in PET/PST, then his case be considered for appointment as per his merit and category for the post in question.

The writ petition is accordingly allowed.