
(2011) 11 DEL CK 0443

In the Delhi High Court

Case No : Writ Petition (C) No. 8030 of 2011

Rajender Lal Meena

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 15-11-2011

Acts Referred:

Citation : (2011) 11 DEL CK 0443

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

Bench : Division Bench

Advocate : Rama Shankar, for the Appellant; Himanshu Bajaj, Central Govt. Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.

CM No. 18090/2011

Allowed subject to all just exceptions.

WP(C) No. 8030/2011

1. The petitioner has sought directions against the respondent to appoint him to the post of Sub Inspector (JE/Overseer) (Civil & Electrical) in BSF/CISF as per call letter dated 8th February, 2010 and the admit card issued by the respondents to the petitioner and to also treat his appointment from the date of passing the fitness test for the purpose of seniority on notional basis.

2. The petitioner contended that he had participated in the process of recruitment for the post of SI (JE) Electrical and that he was issued Roll Number for examination for recruitment to the said post, pursuant to which he appeared in the written examination held on 14th March, 2010. The petitioner was also issued a call letter dated 8th February, 2010 for the first phase examination. The letter categorically stipulated that the petitioner's admission to the written examination shall be provisional.

3. After the written examination, the petitioner was called for the second phase of selection process by letter dated 15th April, 2010 which comprised of checking of documentation, physical measurement, physical efficiency test, interview and medical examination.

4. Pursuant to the medical examination, the petitioner was declared unfit on account of the petitioner suffering from hypertension.

5. By communication dated 10th May, 2010, the petitioner was intimated that in case the petitioner prefers to file an appeal against the finding of the medical examination declaring him unfit, he could apply in the proper form and after obtaining the necessary medical certificate from a specialized medical practitioner, the same could be submitted within one month from the date of the letter dated 10th May, 2010.

6. Against the medical examination declaring the petitioner unfit, the petitioner preferred an appeal and obtained a medical fitness certificate dated 25th May, 2010 from the Chief Medical Officer, General Practitioner, Karauli. The petitioner contended that he had sent the relevant medical certificate to the respondents requesting that he may be appointed after conducting the review medical examination.

7. Petitioner asserted that he was informed that he would receive the intimation about his appointment in due course. The petitioner, after waiting for some time, also made a representation dated 6th July, 2010, however, he did not receive any response to his representation.

8. Thereafter, the respondent sent a communication dated 2nd August, 2010 to the petitioner asking him to appear before the Review Medical Board. The petitioner was intimated that his review medical examination would be conducted at FHQ Hospital-I, R.K. Puram, New Delhi on 12th August, 2010. According to the petitioner, he appeared before the Review Medical Board, which declared him fit for appointment, however, he had not received any intimation about his appointment.

9. The petitioner, in the circumstances, has sought directions to the respondents to appoint him to the post of Sub Inspector and to give him seniority on notional basis from the date of petitioner's passing the fitness test.

10. The Learned Counsel for the respondents, Mr. Himanshu Bajaj, has appeared on advance notice and contended that the representation of the petitioner was received by the respondents. It was also contended that the respondents had also received a communication dated 15th September, 2011 from the National Commission for Scheduled Tribes to expedite the requisite information to the petitioner. The Learned Counsel for the respondents has also produced a copy of the letter dated 1st August, 2011 addressed to Sh. N. Balasubramanian, Research Officer, National Commission for ST intimating that the petitioner had qualified all the selection tests except the medical examination. However,

subsequently the petitioner had appeared in review medical examination held on 12th August, 2010 and had been declared fit. The respondents also disclosed that the petitioner could not make it in the final merit test among the qualified candidates of the ST category and therefore, the appointment letter was not issued to him.

11. Learned Counsel for the respondents has also produced a copy of the merit list of "ST Category" candidates for the post of SI-JE/Overseer (Electrical)-BSF & CISF. According to the said merit list, the candidate Bhil Amrit Bhai bearing Roll No. 6637 obtained a total of 155 marks, while another candidate Sh. Tarkeshwar Sah bearing Roll No. 7013 scored 122 marks whereas the petitioner, Sh. Rajdender Lal Meena, bearing Roll No. 6412 scored only 120 marks.

12. In the circumstances, it is contended that there was only one seat for ST category in BSF and, therefore, the petitioner could not make it in the merit list for the said post and, therefore, he is not entitled for appointment nor could any appointment letter be issued to him.

13. this Court has heard the Learned Counsel for the parties and has also perused the copy of the merit list produced by the Learned Counsel for the respondents for the one post reserved for the ST category. The copy of the merit list has also been shown to the Learned Counsel for the petitioner.

14. The Learned Counsel for the petitioner, in the circumstances, is unable to show as to how the petitioner can be appointed to the post of SI-JE/Overseer (Electrical) in BSF as he is at Sl. No. 3 in the order of the merit and there is only one vacancy for the said post.

15. No other point has been urged on behalf of the petitioner. In the circumstances, the petitioner is not entitled for direction to the respondents as prayed by him.

The writ petition in the facts and circumstances is without any merit and it is therefore, dismissed.

CM No. 18089/2011

Since the writ petition of the petitioner has been dismissed, the petitioner is not entitled for any direction as prayed by him.

The application for direction is, therefore, dismissed.