

(2013) 08 DEL CK 0249
In the Delhi High Court
Case No : Writ Petition (C) 2917 of 2013

Satish	Vs	APPELLANT
Union of India and Others		RESPONDENT

Date of Decision : 14-08-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 6 ILR Delhi 4561

Hon'ble Judges : Gita Mittal, J;Deepa Sharma, J

Bench : Division Bench

Advocate : Ajit Kakkar, for the Appellant; Barkha Babbar, for UOI, for the Respondent

Final Decision : Allowed

Judgement

Gita Mittal, J.—The writ petition has been preferred by the petitioner under Article 226 of the Constitution of India for issuance of writ of certiorari and direction to quash the order dated 12th February, 2013 passed by respondent No. 3/Recruiting Officer Coast Guard whereby the candidature of the petitioner for the post of Naik GD in the Indian Coast Guard pursuant to a Selection Process conducted in 2012 was rejected on the medical grounds. Being aggrieved, the petitioner assails the result of the medical examination conducted at INS Chilka, Nivaran Hospital on 12th February, 2013 whereby he was found medically unfit for enrolment on the ground that he was suffering from "NYSTAGMUS". The petitioner placed reliance on reports of his medical fitness. He also complains of failure of the respondents to grant review to him. Given the urgency of this matter as it is concerned with recruitment and to obviate any further dispute we had passed an order dated 6th May, 2013, directing the petitioner to appear before the Commandant, Army Hospital (Research and Referral), Delhi Cantt on 14th May, 2013 pertaining to his medical examination with all records in his possession.

2. The Commandant, Army Hospital (Research and Referral), Delhi was also

directed to constitute a Board of Specialists/Experts to conduct appropriate medication examination of the petitioner. The Board so constituted was directed to take an independent view in the matter uninfluenced by the previous reports produced by both the parties.

3. Pursuant to the above directions, the petitioner was medically examined by the Board of officers of the Army Hospital, (Research and Referral). The respondents have filed an Affidavit dated 30th July, 2013 enclosing therewith a copy of the report dated 16th May, 2013 of the petitioner's medical examination. The relevant extract of this report reads as under:-

3. The board examined the candidate and findings are as follows:-

(a) His neurological evaluation shows normal visual acuity and colour vision.

(b) His pupils are bilaterally equal and reacting to light with normal accommodation reflex. His extra ocular movements are full.

(c) There is no esotropic or exotropic eye defect. His saccades and pursuits are normal. There is no primary of gaze evoked nystagmoid movements. There is no motor, sensory or cerebellar dysfunction.

4. Opinion of the Board of officers:-

(a) A case of nystagmus (Inv)-NAD

(b) He is fit for nystagmus.

4. It is manifest from the above that no abnormality was detected and the petitioner did not have the problem of nystagmus. In view of the above, no objection remains to petitioner's recruitment to the post of Navik GD in the Indian Coasts Guard.

In view of thereof, we direct as follows:-

(i) The order dated 12th February, 2013 passed by respondent No. 3 cancelling the petitioner's candidature to the post of Navik GD in the Indian Coast Guard is hereby set aside and quashed.

(ii) The respondents are directed to proceed in the matter of petitioner's recruitment in accordance with prescribed procedure and to pass appropriate orders in this regard within a period of two weeks from today.

(iii) The respondents shall ensure that full opportunity of training is facilitated to the petitioner and he is permitted to complete his training at the earliest.

(iv) The petitioner shall be entitled to notional seniority and he shall be placed above his batch mate who was immediately below him in the order of merit list that was prepared at the time of original recruitment. The petitioner shall be entitled to the benefit of seniority for his pay fixation.

(v) The petitioner shall not be entitled to back wages.

(vi) Orders in this regard shall be passed within four weeks and communicated to the petitioner.

This writ petition is allowed in the above terms.