
(2018) 03 DEL CK 0492

In the Delhi High Court

Case No : Civil Writ Petition No. 6902 Of 2017

Saurabh Yadav

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 21-03-2018

Acts Referred:

Citation : (2018) 03 DEL CK 0492

Hon'ble Judges : Hima Kohli, J;Pratibha Rani, J

Bench : Division Bench

Advocate : Ankur Chhibber, Shruti Munjal, R.L.Goel, Anju Gupta

Final Decision : Disposed Of

Judgement

1. The present petition has been filed by the petitioner seeking directions to the respondents/CISF to get him medically examined at any hospital as per the recommendations of the respondents and if found fit, declare his result for recruitment to the post of Sub-Inspectors (SI) in the Delhi Police and Central Armed Police Forces

2. The brief undisputed facts of the case are that on 09.01.2016, Staff Selection Commission (SSC) issued a Notice for recruitment of Sub-Inspectors (SI) in the Delhi Police and Central Armed Police Forces (CAPF's) and Assistant Sub-Inspectors in the CISF Examination, 2016. On 24.01.2016, the petitioner applied for recruitment under the OBC category. He appeared in the pre-examination on 20.03.2016, but the same had to be cancelled due to leakage of the examination papers. Subsequently, on 07.06.2016, the petitioner was directed to appear in the written examination conducted at Pandav Nagar, New Delhi. On clearing the written examination, he was called for a Physical Endurance Test (PET), the results whereof were declared on 19.09.2016, wherein he was declared fit. On 18.12.2016 the petitioner sat in the Main Examination (Part-II) at New Delhi and on successfully clearing the said examination, he was issued a letter dated 24.03.2017 for document verification and Medical Examination scheduled on

18.04.2017. The petitioner was medically examined at the Composite Hospital, BSF on 19.04.2017, where he was declared medically unfit on account of suffering from 'Tremors, Overweight & Hypertension'.

3. Aggrieved by the aforesaid findings, the petitioner filed an appeal on 25.04.2017 and sought a Review Medical Board, which request was acceded to and on 24.06.2017 the Review Medical Board asked the petitioner to appear at the Composite Hospital, BSF, Jodhpur on 19.07.2017 for a medical examination, which he did but was declared fit for 'Tremors and Overweight'. The petitioner was, however, declared unfit on account of 'Hypertension'.

4. In the very same month, the petitioner's parents took him to Rao Tula Ram Memorial Hospital, Govt. of NCT of Delhi for examination, where Dr.Rajiv Solanki, Sr.Medical Officer, had opined as under:

"BP - within Normal range. Fit from medicine side."

5. Armed with the said report, the petitioner has filed the present petition stating inter alia that having cleared the written examination and the physical test, he has been declared unfit only because of discrepancies in his medical report and that a Government hospital has cleared him of 'Hypertension'.

6. A counter-affidavit in opposition to the present petition has been filed by the respondents wherein it has been averred that the petitioner was initially medically examined at the Composite Hospital, BSF, Jodhpur on 19.04.2017 and declared unfit on three counts i.e. (i) Tremors, (ii) Overweight & (iii) Hypertension. When the petitioner preferred an appeal against the findings of the DME Board, the same was considered and accepted by the Appellate Authority on 19.07.2017. His medical examination was held at the Composite Hospital, Jodhpur on 21.07.2017, where he was declared unfit on account of 'Hypertension'.

7. Learned counsel submits that 'Hypertension' has been mentioned as a General ground for Rejection in para 6 of the Revised Uniform Guidelines for Recruitment Medical Examination for recruitment of GOs and NGOs in the CAPFs & AR, dated 20.05.2015. He submits that the medical examination of the petitioner has revealed on two occasions that he suffers from 'Hypertension' and therefore, is unfit for recruitment to the subject post.

8. Learned counsel for the petitioner says that in similar circumstances, as in the present case, the court had passed an order dated 11.08.2016 in W.P.(C) 6202/2016 and 6210/2016, permitting the two petitioners therein to present themselves at the Army R&R Hospital to examine them and it was directed that in the event the Medical Board would find them fit, the respondent authorities would reconsider their decision with regard to their appointment.

9. Learned counsel for the respondents states on instructions that they have no objection to the petitioner being referred to the Army R&R hospital, New Delhi but it may be clarified that he shall have to be admitted in the hospital so that

the effect of any medication for treatment of hypertension that could camouflage the result, wears off.

10. Accordingly, the present petition is allowed and disposed of with directions issued to the respondents/CISF to give a written intimation of the date and time, on which the petitioner shall present himself at the Army R&R Hospital, New Delhi, for being admitted for a period of one week or more/less, as considered necessary. The medical records of the petitioner shall be submitted alongside. The report of the Army R&R Hospital shall be forwarded directly to the respondent/CISF with a copy marked to the petitioner. The said report shall be considered as final. In the event the said report clears the petitioner of the condition for which he has been disqualified by the respondents, then the respondent/CISF shall take immediate steps to process his candidature, subject to any other eligibility conditions as prescribed, with all consequential benefits to which he would be entitled in law.

11. The petition is disposed of with no orders as to costs. We make it clear that the above order has been passed in the peculiar facts and circumstances of the case and shall not be cited as a precedent in the future.

12. A copy of the order be given DASTI under the signatures of the Court Master, to the counsels for the parties.