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**(2012) 07 DEL CK 0360**  
**In the Delhi High Court**  
**Case No : Writ Petition (C) 9085 of 2011**

Tholu Rocky

APPELLANT

Vs

Director General Csf and Others

RESPONDENT

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**Date of Decision :** 23-07-2012

**Acts Referred:**

**Citation :** (2012) 7 AD 356

**Hon'ble Judges :** Rajiv Sahai Endlaw, J;A.K. Sikri, J

**Bench :** Division Bench

**Advocate :** Suryakant Singla with Ms. Shagun Bhatnagar, for the Appellant;  
Rajeeve Mehra, ASG with Mr. Sunil Kumar, Rajiv Ranjan Mishra, Advocate for  
Union of India, for the Respondent

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## Judgement

A.K. Sikri, Acting Chief Justice

Rule D.B.

1. We have heard the matter finally at this stage itself. In this writ petition filed by the petitioner he is seeking following reliefs:-

(i) issue appropriate writ(s)/order(s) direction (s) including writ in the nature of mandamus to command the Respondent No. 1 to 3 quash the order dated 19.9.11 to reconsider the case of the petitioner and to declare him qualified in the Limited Departmental Competitive Examination-2010-2011.

(ii) issue appropriate writ (s)/order(s)/directions declaring the Clause (1) of the Appendix-II(a) of the Notification dated 16.04.2011 issued by the Ministry of Home Affairs as illegal and ultra-vires as the same is discriminatory and absurd as it blocks the chances of promotion through LCDE, once for all, to the petitioner and similarly placed persons.

2. Briefly stated the facts are that the petitioner is a member of Central Industrial Security Force (CISF) and is working as Sub-Inspector/Executive. At present he is posted at ASG, Rajkot Airport, Rajkot, Gujarat. He belongs to the

Poumai Naga tribe of Manipur State. This tribe is recognized as the Scheduled Tribe by the Government Notification. Though, there is some minimum height requirement for joining the CISF, when the petitioner was recruited to the CISF in the year 2002 through open competition, he was given relaxation in physical standards. The Central Industrial Security Force (Subordinate Ranks) Recruitment Rules, 1999 as amended on 28.6.2001 provides for such a relaxation particularly for Mizo's and Naga's communities. Although, the normal height required for joining this post is 170/165 cms, in case of Mizos and Nagas, the height to qualify for physical standard for recruitment is provided as 162.5 cms. The Central Industrial Security Force (Subordinate Ranks) Recruitment Rules, 1999 prescribed physical standards in the following manner:-

Sub Inspector (Executive)

(i)...

(ii)..

(iii) Physical Standard:

(a) Height

General candidates: 170 Cms.

(aa) Candidates belonging to Hill areas of Garhwal, Kumaon, Himachal Pradesh, Gorkhas, Dogras, Marathas, Sikkimies, Leh and Ladakh, Kashmir Valley and North Eastern States: 165 Cms.

(aaa) Tribal/Adivasis including Mizos and Nagas-162.5 cms.

Note: the height shall not be less than 153 cms in case of female candidates.

The height of the petitioner is 163 cms. On this basis, since he was fulfilling the relaxed standard prescribed in the Rules, he was taken in service.

3. The petitioner now aspires to become Assistant Commandant in the CISF. There is a provision for Limited Departmental Competitive Examinations (LDCE) for those working as Sub-Inspector/Executive. To appear in this examination as a fast track mode for recruitment to the post of Assistant Commandant, the UPSC invited application for the LDCE 2010-2011 for the post of Assistant Commandant vide notification dated 16.4.2011. The petitioner, otherwise eligible in all respect applied for this post. However, the minimum height prescribed is 165 cms as mentioned above. The petitioner does not fulfill this height requirement. He accordingly sent representation dated 10.5.2011 giving him relaxation insofar as aforesaid requirement is concerned stating that he had joined the service in CISF also in the rank of Sub Inspector/Executive under the relaxed standards. Though, no reply to the said representation was given to the petitioner, at the same time, the petitioner was allowed to appear in the written examination which was conducted on 19.6.2011. The petitioner emerged successful in the said written examination. Accordingly he was called for

undergoing PER and MET. On the basis of this examination process undertaken by the respondent, the name of the petitioner appeared at sl. No. 142 of the provisionally qualified candidates. Thereafter, the petitioner appeared for Physical Efficient Test and Medical Test on 14.9.2011. However, his candidature was rejected on the ground that his height was less than 165 cms. It is in these circumstances the petitioner challenges Clause (1) of the Appendix-II(a) of the Notification dated 16.04.2011 prescribing the minimum height of 165 cms. for appointment to the post of Assistant Commandant in CISF as contained in the Central Industrial Security Force, Assistant Commandant (Executive), Recruitment Rules, 2009. The schedule attached to these Rules inter alia prescribes physical standards in the following manner:-

(b)Physical standard:-

Men

Women

Height

165 cms

157 cms

Chest

81 cms

(unexpanded)

86

(Expanded)

N.A.

N.A.

Weight

50 Kgs

According to height but not less than 46 Kgs.

Rule 5 of the aforesaid Rules gives power to the Central Government to relax any of the provisions of these Rules with respect to any clause or category of persons.

4. The facts disclosed above would demonstrate that a person of schedule tribe of Mizo's and Naga's community is given relaxation in physical standards and the Central Industrial Security Force (Subordinate Ranks) Recruitment Rules, 1999 provide for height of 162.5 cms. only as against candidates belonging to other categories where the height required is 170/165 cms. Therefore, we do not find any justification or rationale in not extending the same benefit to this tribe

at the stage of their promotion to the post of Assistant Commandant. The purpose of inserting different standards for Mizo's and Naga's in the Central Industrial Security Force (Subordinate Ranks) Recruitment Rules, was recognition of the fact that normally the persons belonging to these communities/tribes are of short heights. That fact is given due recognition by making the aforesaid provision and on that basis, the petitioner was allowed to enter the service in CISF. Once this aspect is recognized and requisite provision made at the entry level, we fail to understand as to how it becomes a bar when it comes to further progression in his service. Not only it is irrational and arbitrary, it would also amount to stagnating a person at the present post without giving him chance to seek promotion to a higher post.

5. In the case of Council of Scientific and Industrial Research and Another Vs. K.G.S. Bhatt and Another, , though in different context, the Supreme Court commented upon the need to get the promotion in the service career which is the legitimate expectation of an employee. This was reiterated by the Supreme Court in the case of Dr. Ms. O.Z. Hussain Vs. Union of India and others, .

6. We are, therefore, of the opinion that the provision of height as provided in the Central Industrial Security Force (Subordinate Ranks) Recruitment Rules, 1999 needs to be incorporated in the Central Industrial Security Force, Assistant Commandant (Executive), Recruitment Rules, 2009 as well.

7. Present writ petition is accordingly allowed and the rule made absolute. The order dated 19.9.2011 is hereby quashed. We also issue mandamus to the respondents to incorporate the provision in similar lines as contained in the Central Industrial Security Force (Subordinate Ranks) Recruitment Rules, 1999 within four weeks. Insofar as the petitioner is concerned, once it is found that he has qualified the LDCE, in all respect, he shall be promoted to the post of Assistant Commandant from the date other candidates who had qualified the examination were given the promotion, with all other consequential benefits.