

Court No. - 8

Case :- WRIT - A No. - 3534 of 2023

Petitioner :- Deepak Kumar

Respondent :- Union Of India Thru. Secy, Ministry Of Home Affairs
Govt. Of India And 6 Others

Counsel for Petitioner :- Jay Prakash Singh, Rajesh Pandey

Counsel for Respondent :- A.S.G.I.

Hon'ble Dinesh Kumar Singh, J.

1. Heard Sri Jay Prakash Singh, learned counsel for the petitioner as well as Sri S.B. Pandey, learned Deputy Solicitor General of India, assisted by Sri Varun Pandey and Sri Shubham Tripathi, learned counsel for the King George Medical University (for short 'KGMU').

2. The present petition under Article 226 of the Constitution of India has been filed seeking a Writ of Certiorari quashing the order dated 11.1.2023 passed by the Commandant, 91 Battalion, RAF, Group Center, CRPF Campus, Bijnor, Lucknow with further prayer for a Writ of Mandamus commanding the opposite parties to consider the appointment of the petitioner on compassionate ground on a suitable post.

3. Sri Shubham Tripathi, learned counsel for the KGMU submitted a report of the petitioner prepared by the Medical Board constituted in pursuance to the order passed by this Court on 16.5.2023, which reads as under:-

"1. Heard Mr. Satyendra Kumar Tiwari, Advocate, holding brief of Mr. Jay Prakash Singh, learned counsel for the petitioner, as well as Mr. S.B. Pande, learned Senior Advocate/Deputy Solicitor General of India, assisted by Mr. Varun Pande, Advocate, learned counsel for the respondents.

2. The petitioner applied for appointment under the relevant Rules after his father was murdered on 30.11.2008 for which FIR/Crime No.0620 of 2008, under Section 147, 302 and 34 IPC was lodged at Police Station Delhi Gate, District Aligarh against mother of the petitioner, wife of the deceased. However, the accused, including mother of the petitioner, have

been acquitted by the trial Court vide judgment and order dated 01.05.2018 against which the State has come in appeal before the High Court and the said appeal is pending.

3. The petitioner's claim for appointment, on compassionate ground, was forwarded by the Commandant 91 Battalion RAF, Group Centre CRPF, Lucknow on 31.05.2018. However, the petitioner's claim for appointment under the relevant Rules has been rejected vide order dated 11.01.2023 on the ground that the petitioner was medically unfit for two reasons, namely, (i) defective distant vision right eye (6/12) and (ii) hematuria (6-8 red blood cell/HPE & Pees cells in urin (8-12/HPF). Even before the Review Medical Board, the petitioner was declared unfit for giving him appointment in CRPF.

4. On behalf of the petitioner, it is submitted that the petitioner's vision has been improved and he does not have any defective distant vision, as was pointed out in the order dated 11.01.2023 and hematuria has been completely cured. It is further submitted that hematuria is a curable disease, which can be cured in a few days. It is further submitted that if on direction of this Court a medical board is constituted to examine the petitioner, the petitioner would appear before the said medical board and, if he is found fit, he may be offered appointment under the relevant Rules.

5. On behalf of the respondents, the prayer made above is opposed and it is submitted that there is no provision for further review medical board once the review medical board does not find a candidate suitable for appointment. It is further submitted that the writ petition is without any merit and substance and the same may be dismissed.

6. I have considered the submissions advanced from both sides.

7. The petitioner is seeking appointment on compassionate ground. Not only the authority, but the Court should also show some compassion towards a candidate seeking appointment on compassionate ground. The claim of the petitioner is that he meets all the medical parameters for appointment in CRPF. The two reasons, on which the petitioner has been declared unfit, are not existing.

8. Considering the fact that the petitioner is not seeking a regular appointment, but he is seeking compassionate appointment, this Court deems it appropriate that the petitioner should be examined by an independent medical board of doctors of the King Georges Medical University, Lucknow.

9. The Registrar, King Georges Medical University, Lucknow is directed to constitute a medical board of physician and ophthalmologist. This medical board should meet on Friday i.e. 19.05.2023.

10. The petitioner shall appear, along with the certified copy of this order before the Registrar, King Georges University, Lucknow on Friday i.e. 19.05.2023.

11. The medical board's report shall be submitted before this Court on the next date of listing of this matter on 22.05.2023 by Mr. Shubham Tripathi, learned counsel for the King Georges Medical University, Lucknow, who shall communicate this order for necessary compliance.

12. Respondent no. 4-Inspector General, CRPF, Central Zone, Lucknow shall nominate/depute a Doctor from CRPF to take part in the said medical board.

13. Let the matter be listed on Monday i.e. 22.05.2023, *peremptorily*.”

4. The four member Medical Board has tested the petitioner for eye vision and Hematuria on 19.5.2023. The four member Medical Board has found the eye vision of the petitioner normal and Hamaturia-Urine R/M and USG KUB region normal. The said report is taken on record.

5. In view thereof, opposite party nos.2, 3, 4 and 5 are directed to process the appointment of the petitioner on compassionate ground on the post of Constable (Driver) in CRPF taking into note that the petitioner's eye vision is normal and Hamaturia is also normal, within a period of two months from today ignoring the earlier order passed.

6. With the aforesaid observation and direction, the present writ petition stands ***disposed of finally***.

7. It is made clear that this order in the present writ petition has been passed taking into consideration that the petitioner is seeking appointment on compassionate ground and it is not a normal recruitment and, therefore, it should not be treated as precedent in future in respect of the normal recruitment process.

Order Date :- 22.5.2023

Rao/-