

Court No. - 20

Case :- WRIT - A No. - 8333 of 2023

Petitioner :- Abhishek Singh And 2 Others

Respondent :- State Of U.P. Thru. Addl. Secy. Promotion U.P. Police Recruitment And Promotion Board And 3 Others

Counsel for Petitioner :- Lalit Mohan Singh, Ajit Singh

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for the petitioners.
2. Notices for opposite parties have been accepted by the office of learned Chief Standing Counsel.
3. The present Writ Petition has been filed seeking a direction to the opposite parties to conduct physical efficiency test afresh for the post of Sub-Inspector of Police under the U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 on account of the fact that the petitioner was suffering from illness on the date when the physical efficiency test was scheduled.
4. Similar controversy had already been adjudicated by this Court by means of judgment and order dated 26.04.2017 passed in Writ Petition No.15721 (S/S) of 2016, which is reproduced here-in-below:

"Heard learned counsel for the parties.

No counter affidavit has been filed yet but the instructions have been received by the learned standing counsel. A copy of the said instructions has been placed before the Court, the same be placed on record. The instructions merely reiterates the reasons already given in the impugned order, therefore, there is no need to call for any counter affidavit.

The instructions received by the learned standing counsel do not disclose any justifiable cause for not acceding to the request of the petitioner for fixing a date for physical test as on the date already fixed, the petitioner was not well and was suffering from Jaundice and had been advised three weeks rest which is evident from the documents at page no. 30-31 of the

paper book, therefore, in these circumstances the contention that on the Website it had been specifically mentioned that no second chance would be given to the candidate is of no avail as if a person is suffering from Jaundice obviously he could not participate in physical races etc. and specially as the consideration being for compassionate appointment, a compassionate view ought to have been taken into the matter, as such, the impugned order containing the aforesaid reason is hereby quashed. The respondents shall fix a fresh date for a physical examination for the petitioner afresh for compassionate appointment. Let this be done within three weeks and thereafter within next three weeks the physical examination shall be held. Consequences shall fallow as per law.

The writ petition is disposed of in the aforesaid terms."

5. Since grievance of the petitioner in the present petition is similar to one which has already been adjudicated here-in-above, the benefit of the aforesaid order dated 26.4.2017 shall also be made available to the petitioner in the same terms.

6. The Writ Petition is **disposed of finally** subject to the observations made herein above.

Order Date :- 19.10.2023

Mohd. Sharif