

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP(C) No.544 of 2024

1. Sri Prasenjit Sarkar, son of Sri Ranjit Sarkar of Durga Colony, Ishanchandra Nagar, West Tripura, PIN-799003.

.....Petitioner

_V_E_R_S_U_S_

1. The Union of India, represented by the Ministry of Home Affairs, Government of India.
2. The Central Industrial Security Force, represented by the Director General, Office at Block No.13, CGO Complex, Lodhi Road, New Delhi, Delhi-110003.
3. The Deputy Inspector General, Central Industrial Security Force, KRTC, Mundali, Odisha, 754013.
4. The Commandant, Central Industrial Security Force, KRTC, Mundali, Odisha, 754013.

.....Respondents

For Petitioner(s)	:	Ms. R. Purkayastha, Advocate.
For Respondent(s)	:	Mr. B. Majumder, Deputy SGI
Date of hearing and Judgment	:	12.02.2026
Whether fit for reporting	:	NO

HON'BLE JUSTICE DR. T. AMARNATH GOUD

_F_I_N_A_L_O_R_D_E_R_

Heard Ms. R. Purkayastha, learned counsel appearing for the petitioner also heard Mr. B. Majumder, learned Deputy SGI, appearing for the respondents.

[2] This present writ petition has been filed under Article-226 of the Constitution of India directing the respondents for quashing the impugned decision of the respondents, communicated to the petitioner by letter dated 05.05.2022 to the effect that the petitioner has been found to have defective colour vision CPIV and on this basis, the provisional offer of appointment of the petitioner had been cancelled finding him unfit for employment and further, to re-instate the petitioner in his original post.

[3] The petitioner has prayed for the following reliefs:

“1) ISSUE RULE, calling upon the respondents and each one of them to show cause as to why a Writ of Certiorari and/or in the nature there-of, shall not be issued, for quashing/setting the impugned decision of the Respondents, communicated to the petitioner by letter dated 05.05.2022 (Annexure- F), to the effect that the petitioner had been found to have defective colour vision- CP IV

and on this basis, the provisional offer of appointment of the petitioner had been cancelled finding him unfit for employment.

II) Issue rule, calling upon the respondents and each one of them, to show cause as to why Writ of Mandamus, and/or in the nature, shall not be issued, for mandating/directing the respondents, to re-instate the petitioner in his original post.

III) Call for the records appertaining to this petition;

(IV) After hearing the parties, be pleased to make the rule absolute in terms of i and ii above;

V) Costs of and incidental to this proceeding.”

[4] The facts in brief are that vide notice dated 21.07.2018, an advertisement was issued for recruitment to the post of Constables (GD) and on 11.05.2021, the petitioner had been issued offer of appointment. Accordingly, the petitioner had joined to CISF RTC Mundali, Odisha on 17.06.2021. During continuation of his training, he had been again subjected to medical examination. After completion of his medical examination by letter dated 05.05.2022, the petitioner had been informed that he had been found to have defective colour vision- CP IV and on this basis, the provisional offer of appointment of the petitioner had been cancelled finding him unfit for employment. The petitioner most humbly submits that the petitioner is not suffering from any defective colour vision- CP-IV and it has been examined by the concerned doctor of IGM Hospital.

[5] Being aggrieved, the petitioner had submitted representation dated 07.08.2022 before the respondent No.3 for allowing him to join in CISF but by the impugned letter dated 03.09.2022 his prayer for joining had been turned down. This impugned finding against the petitioner to the effect that the petitioner being medically unfit as well as the impugned cancellation of the appointment of the petitioner by the respondents is highly illegal and beyond terms and condition of the offer of appointment dated 11.05.2021. Moreover, as per their notification/ medical guideline for CAPF job, CP-IV is allowed. Pursuant thereto he had submitted representation on 04.06.2023 before the Deputy Inspector General, CISF, KRTC Mundali, Orissa via email.

[6] Being aggrieved by and dissatisfied with the same, the petitioner filed the present writ petition before this Court for fair ends of justice.

[7] Ms. Purkayastha, learned counsel appearing for the petitioner has submitted that on 21.07.2018, an advertisement was issued by the Staff Selection Commission [SSC, for short] whereby, the SSC declared the petitioner as selected after following due procedure. Thereafter, on 11.05.2021, the petitioner had been offer of appointment thereby recruiting him as Constable/GD in CISF and had directed him to report to RTC Mundali, Kharavela Recruit Training Centre, Mundali, Orisha. Accordingly, the petitioner had joined to the same on 17.06.2021 for completion of his CISF CT/GD basic training.

[8] During continuation of his training, he had been again subjected to medical examination. After completion of his medical examination by letter dated 05.05.2022, the petitioner had been informed that he had been found to have defective colour vision CP IV and on this basis, the provisional offer of appointment of the petitioner had been cancelled finding him unfit for employment. It has been contended that the petitioner is not suffering from any defective colour vision CP-IV. This finding against the petitioner to the effect that the petitioner being medically unfit as well as the impugned cancellation of the appointment of the petitioner by the respondents is highly illegal and beyond terms and condition of the offer of appointment dated 11.05.2021 and as such, not tenable in the eye of law.

[9] As per Clause-XIV of the offer of appointment, it has been specifically and clearly mentioned *“You will be subjected to fresh medical examination at the time of reporting to RTC, if the validity period of 18 months from the date of fitness to joining service is over in terms of recruitment medical guidelines issued by MHA vide UP dated 20.05.2015 and MHA UP dated 16.04.2021. In such a situation, you will be allowed to the join the post after being found fit in fresh medical examination”*; which *interalia* means that if the duration between last medical examination during the process of selection and date of joining is more than 18 months, then only, after joining to service fresh medical examination of the candidate has to be conducted.

[10] It is pertinent to mention here that the re-medical examination of the petitioner had been conducted on 05.10.2020 and the petitioner joined in CISF on 17.06.2021 which *interalia* means that the intervening period is less than 18 months and thus the impugned examination of the petitioner and thereafter the impugned declaration of him being unfit and thereafter the impugned cancellation

of the appointment of the petitioner is grossly illegal and not tenable in the eye of law. The notification dated 16.04.2021 issued by the Under Secretary to the Government of India, Ministry of Home Affairs, Police-11 Division(PF-VI Desk), it had been specifically mandated that the validity period of the opinion of the Recruitment Medical Board had been extended for a period of 18 months from the date of fitness to joining of services in respect of all candidates of Constable (GD) in CAPFs, NIA, SSF and Rifleman (GD) in Assam Rifles Examination, 2018 whose detailed medical examination was conducted during the period from 09.01.2020 to 13.02.2020. The detailed medical examination of the petitioner was conducted on 22.01.2020.

[11] After cancellation of his provisional appointment, the petitioner returned to his home town at Agartala. After returning, the petitioner had requested the respondents to allow him to rejoin. Pursuant to his requests, the respondents verbally informed the petitioner to recheck his vision and therefore, the petitioner had undertaken medical examination of his eye at Indira Gandhi Memorial Hospital, Government of Tripura, Agartala, West Tripura as outdoor patient wherein his colour vision had been found normal by the Medical Officer, Eye OPD. From the officials of the respondents, the petitioner could know that as per the guidelines issued by the respondents, the medical board shall decide every case in consonance with the opinion of the doctor of the government medical hospital. But the respondents most illegally had not considered the opinion of the government hospital.

[12] Learned counsel appearing for the petitioner has further contended that as per their notification/ medical guideline for CAPF job, CP-IV is allowed. Pursuant thereto the petitioner had submitted representation on 04.06.2023 before the Deputy Inspector General, CISF, KRTC Mundali, Orissa via email. But in spite of waiting for several months and a series of requests, the respondents have neither allowed the petitioner to rejoin nor have responded to his request. Therefore he could realize that he will not get the relief from the respondents and therefore, ultimately he was left with no other option to approach this Court. But in the meantime in the last part of the year 2023, the mother of the petitioner became severely ill, almost in a bed ridden condition, and since the petitioner belongs to a very poor family, out of acute financial constraint, he was not even in a position to invest a penny towards approaching this Court. After the mother of the petitioner

had recovered, the petitioner managed the expenses for preferring writ petition and therefore approached this Court.

[13] Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents has submitted that Para (2) (xiv) of Offer of Appointment in respect of the petitioner lays down the condition for fresh medical examination, if validity period of 18 months from the date of detailed medical examination to join in service is over. However, it is pertinent to mention here that on reporting to CISF KRTC Mundali for basic training of 44th batch of CT/GD, the petitioner was subjected to medical examination in respect of color blindness only with all other candidates reported for basic training of 44th batch CT/GD, which was done in accordance with the directions issued vide CISF HQrs. New Delhi letter No. M-20015(78)/CISF/Med. Dir/DVC/2017-1133 dated 22.09.2017. Para-I of the aforementioned memorandum which should be read in conjunction with Para-4(f) of policy guidelines dated 18.05.2012 clearly lays down the condition that colour vision test should be done at the time of recruitment & later on at the time of basic training. Since the petitioner was found with defective color vision (CP-IV), the cancellation of offer of appointment falls in line with the lawful guidelines issued in this regard & hence maintainable in the eyes of law.

[14] In view of above and having heard the learned counsel appearing for the petitioner and overall analysis, this Court is of the opinion that to go into the root of the issue it is essential to extract the offer of appointment wherein, Clause-(2) (xiv) held thus:

“You will be subjected to fresh medical examination at the time of reporting to RTC, if the validity period of 18 months from the date of fitness to joining service is over in terms of recruitment medical guidelines issued by MHA vide UO dated 20.05.2015 and MHA UO dated 16.04.2021. In such a situation, you will be allowed to the joint the post after being found fit in fresh medical examination.”

[15] In view of the same, his medical test according to the petitioner was conducted on 05.10.2020 at the time of recruitment and found medically fit and the offer of appointment was given. To the surprise of the petitioner, at the time of basic training i.e. 20.06.2021, once again medical test for colour vision test was done to check colour blindness and the offer of appointment of the petitioner was stood cancelled on the strength of the report submitted by Dr. N. C. Hess, CMO (NFSG) CISF, NIDA Hyderabad (Compat CISF KRTC Mundali) addressed to

Commandant/Adm.CISF KRTC Mundali, Cuttack, wherein, it is categorically indicated that the petitioner, namely, Prasenjit Sarkar has defective colour vision.

[16] Admittedly, as per 2(18), the test that said to have been conducted within 18 months and when there is no specific condition for going for second test within 18 months, the manner in which the cancellation of the offer of appointment letter is found *ultra vires* and cancellation of the same, stands set aside. However, since the selection of the petitioner pertains to CAPF/constable GD, the vision test is very much essential and person with colour blindness or any vision deficiency cannot be recruited since he will be holding a rifle and that would lead for wrong judgment before he fires.

[17] Internal correspondence shown by Mr. B. Majumder, learned Deputy SGI i.e. the correspondence between the medical officer to the commandant and also extension of 12 months to 18 months and conducting of test for the second time, cannot have a bearing upon the offer letter since, the same is not indicated nor there is any saving clause in this regard.

[18] In view of the same, to clear the anomalies, this Court directs the respondents to get the petitioner once again tested for colour blindness and in the even if he is found fit, he may be provided suitable employment. In the event, if the petitioner is found defective colour blindness, it is always open for the respondent authorities to consider the case of the petitioner for providing any other alternative employment, subject to the vacancies available.

[19] With the above observations and directions, the present writ petition stands disposed of.

[20] As a sequel, miscellaneous application, pending if any, shall stand closed.

DR. T. AMARNATH GOUD, J

A. Ghosh

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