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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010147452023

+ **W.P.(C) 5147/2023**

ANKESH YADAV

.....Petitioner

Through: Mr. Rizwan and Ms. Shreya Singh
Thakur, Advocates.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Siddhartha Sinha, SPC with Mr.
Nring Chamwibo Zeliang, Ms. Anu
Priya Nisha Minz, Advocates with Mr.
Anil Kukar DC Law.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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24.08.2026

1. In view of our order dated 22nd July, 2026, which reads as under:-

“1. While discharging duty as a constable with the respondent in 65th battalion at Orissa, the vacancy was declared in the category of Sub-Inspector (SI) for which LDCE 2021-2022, a qualifying examination was conducted on 24th October, 2021.

2. The petitioner duly qualified the aforesaid examination and the physical test thereto.

3. The mandatory medical fitness test which the petitioner was required to undergo has resulted in him being diagnosed for mycobacterium tuberculosis.

4. The aforesaid medical ailment prompted the respondent to place him in the unfit, low medical category from the period 8th March, 2022 to 16th August, 2022.

5. While he was placed in the said low medical category, he was manning the post of constable with the respondent.



6. In the interregnum, in view of him having qualified the written examination for the post of SI and also the physical test thereto, the medical board declared him 'unfit' for the reason of him having been suffering the aforesaid ailment.

7. Relying on the stage V of Clause 5 of the advertisement dated 17.06.2021, it is urged that once the medical examination is conducted of the successful candidates, if they are found to be 'fit' or 'unfit', the respondent shall proceed accordingly and no candidate will be placed in the category of 'temporarily unfit'.

8. Based on the above, it is the contention of the learned counsel for the respondents that though the petitioner continued to be under the scrutiny of the medical board, and he was subsequently declared under SHAPE-I medical category in December, 2022 by the Medical Board, the fact remains that he was unfit for the said post of Sub Inspector and he was rightly so not deputed for the training.

9. If we consider the aforesaid factual position, the anomaly created by the very conduct of the respondents is:-

(a) that even if the petitioner is suffering from the ailment referred above, is free to be continued in the post of constable and post him achieving SHAPE-I medical category, he is still continued as the ailment is curable and is already cured.

(b) for very said ailment, he was found to be unfit but he continued to be in force and thereby, incurring disqualification for the post of Sub Inspector but not for constable.

10. The aforesaid anomaly should have been looked into by the respondents by taking a call as to whether Stage V of Clause 5 of the said advertisement can be said to be attracted to the factual matrix of the case.

11. The aforesaid is in the light of the fact that the respondent continued the petitioner under the medical supervision and was repeatedly referred to medical board and was subsequently declared unfit viz SHAPE-I and permitted to be continued in the employment of the respondent till date in the capacity of constable.



12. Though the ailment was curable, he was shown to be unfit for the post of Sub Inspector and was not deputed for training.

13. In our opinion, the call should have been based on the factual matrix of the case, when the fact remains that the petitioner was continued on the post of constable and continued in the employment.

14. That being so, we deem it appropriate to permit the respondent to take a call, as has been submitted by counsel for the respondents in response to the Court's query and revert within a period of one week from today.

15. List on 3rd August, 2026.”

2. We have heard the respective counsels.
3. The learned counsel for the respondent has stated that the latter cannot permit the petitioner to undergo the training course for the post of Sub-Inspector (SI) *qua* the batch in which he was declared successful but was subsequently found medically unfit. Since the said batch has already completed the training, it is urged that the petitioner in such an eventuality cannot be granted benefit thereof.
4. In the aforesaid background, if we consider the very stand of the respondent, as reflected in Annexure P-4, which reads thus:-



RAPUT

FTR BANGALORE(CR/IT)
27 June 2022 17:17
SHQ KORAPUT, FTR HQ (SPL OPS) OORSHAI(CR/IT)
275218-220/ITR/KPT=17/ODI=21

275218-220/FTR/KPT=17/ODI=21

270340-42/BGLR/CG/RKP

OP
FROM : HQ DG BSF
TO : FTR HQ BSF (SPL OPS) OD (BGLR)
INFO : COMMAND HQ (SPL OPS)/
STC BSF BGLR/65 BN BSF/
FHQ BSF MED DTU/
FHQ BSF (TRG DTE) (BH)

DTO: 271615
U/C
NO.R/3252

FROM PERS DTE (RECTT SECTION) [.] SELECTION OF SI (GD) IN BSF THROUGH LDC EXAM 2020-21 AND TO UNDERGO SI (LDCE) COURSE SRL NO.14 AT STC BSF BGLR WEF 06.06.2022 ONWARDS [.] REF YOUR SIG NO.T-4656 DTD 21.06.2022 [.] NO.174504692 CT (GD) ANKESH YADAV, 65 BN BSF SELECTED AS SI (GD) IN BSF THROUGH LDC EXAM 2020-21 VIDE FHQ BSF PERS DTE (RECTT SEC) SIG NO.R-3252 DTD 14.04.2022 WAS DECLARED MEDICALLY UNFIT BY UNIT MEDICAL OFFICER TO UNDERGO SI (LDCE) COURSE SRL NO.14 DUE TO LOW MEDICAL CATEGORY I.E. SIH1A1P3 (T-24) E1 WEF 08.03.2022 TO 16.08.2022 BEING A CASE OF MYCOBACTERIUM TUBERCULOSIS [.] SINCE NO.174504692 CT (GD) ANKESH YADAV, 65 BN BSF IS HAVING LOW MEDICAL CATEGORY I.E. SIH1A1P3 (T-24) E1 WEF 08.03.2022 BEFORE COMMENCING SI (LDCE) COURSE SRL NO.14, THEREFORE A MEDICAL BOARD BE DETAILED TO REVIEW HIS MEDICAL CATEGORY IMPTV [.] HOWEVER, IF HIS MEDICAL CATEGORY IS UPGRADED AS SHAPE-I, HE MAY BE PERMITTED TO JOIN SI (LDCE) COURSE SRL NO.14 AT STC BSF BGLR OTHERWISE HIS APPOINTMENT AS SI (GD) IN BSF THROUGH LDC EXAM 2020-21 BE TREATED AS CANCELLED AS PER EXISTING INSTRUCTIONS ///

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ED BY NADAR

17053
27/06

275218-220/FTR/KPT=17/ODI=21

270340-42/BGLR/CG/RKP

DTO: 271615
U/C
NO.R/3252

FROM PERS DTE (RECTT SECTION) [.] SELECTION OF SI (GD) IN BSF THROUGH LDC EXAM 2020-21 AND TO UNDERGO SI (LDCE) COURSE SRL NO.14 AT STC BSF BGLR WEF 06.06.2022 ONWARDS [.] REF YOUR SIG NO.T-4656 DTD 21.06.2022 [.] NO.174504692 CT (GD) ANKESH YADAV, 65 BN BSF SELECTED AS SI (GD) IN BSF THROUGH LDC EXAM 2020-21 VIDE FHQ BSF PERS DTE (RECTT SEC) SIG NO.R-3252 DTD 14.04.2022 WAS DECLARED MEDICALLY UNFIT BY UNIT MEDICAL OFFICER TO UNDERGO SI (LDCE) COURSE SRL NO.14 DUE TO LOW MEDICAL CATEGORY I.E. SIH1A1P3 (T-24) E1 WEF 08.03.2022 TO 16.08.2022 BEING A CASE OF MYCOBACTERIUM TUBERCULOSIS [.] SINCE NO.174504692 CT (GD) ANKESH YADAV, 65 BN BSF IS HAVING LOW MEDICAL CATEGORY I.E. SIH1A1P3 (T-24) E1 WEF 08.03.2022 BEFORE COMMENCING SI (LDCE) COURSE SRL NO.14, THEREFORE A MEDICAL BOARD BE DETAILED TO REVIEW HIS MEDICAL CATEGORY IMPTV [.] HOWEVER, IF HIS MEDICAL CATEGORY IS UPGRADED AS SHAPE-I, HE MAY BE PERMITTED TO JOIN SI (LDCE) COURSE SRL NO.14 AT STC BSF BGLR OTHERWISE HIS APPOINTMENT AS SI (GD) IN BSF THROUGH LDC EXAM 2020-21 BE TREATED AS CANCELLED AS PER EXISTING INSTRUCTIONS ///

(emphasis supplied)

5. It is apparent that it was the intention of the respondent that, in case petitioner was upgraded to SHAPE-1 medical category, he could be permitted to join the training course for Sub-Inspector.
6. It is borne out of the record that the petitioner was upgraded to SHAPE-



1 medical category in the medical board proceedings and was accordingly recommended. The said document which reads as under: -

PART- II OF MEDICAL BOARD PROCEEDINGS

No:- 174504692 Rank:-CT Name:- Ankesh Yadav Unit/HQ :- 65 BN BSF

1. Findings by the Board in brief (if different from the findings mentioned in Part - I):- N/A

Opinion of the board:

2. The Board having examined Regt No: 174504692 Rank:-CT Name:- Ankesh Yadav Unit/HQ :- 65 BN BSF is of the opinion that, he is suffering from "Treated case of Pulmonary Tuberculosis" and is considered fit to remain in medical category SHAPE-I.

3.	Was the disability contracted in service? Yes	4.	Was it contracted in circumstances over which he had no control? Yes
5.	Is it directly attributable to conditions of service? No	6.	If so, by what specific conditions? NA
7.	If not directly attributable to service, was it aggravated there by and if so, by what specific conditions? NA	8.	Medical Category Recommended? SIHIAIP1E1
9.	Percentage of Disability? NA	10.	Period for which the above medical category is recommended? PERMANENT
11.	Further treatment/ investigations recommended. As advised by specialist	12.	Next board due on. NA
Employability Restrictions: As per category recommended.			

Place :SHQ BSF, Koraput (OD)
Date : 31st Dec 2022

Presiding Officer: [Signature]
(Dr Sunil Kumar Rai, CMO(SG), 99BN BSF)

Member -1 : [Signature] 31/12/22
(Dr Rajendra Kumar Godara, CMO(SG) 155 BN BSF)

Member -2 : [Signature]
(Dr Ashok Kumar, AC/MO, 151 BN BSF)

7. The said recommendation for the SHAPE-1 medical category was made on 31st December, 2022.

8. In this background, it was expected of the respondents to consider the



claim of the petitioner in the light of the Annexure P-4 referred to above and place him under training for the post of SI.

9. It appears that there has been a failure on the part of the respondents to adhere to their own earlier promises.

10. Even if the batch against which the petitioner was selected has completed its training, that by itself cannot be a reason for not accepting the candidature of the petitioner for the post of SI, as the petitioner can be sent for the training and his seniority can be safeguarded, provided that he shall not be entitled to any monetary claims/back wages.

11. In that view of the matter, having regard to the case of the respondents, as discussed hereinabove, we deem it appropriate to allow the present petition.

12. We direct that the petitioner be permitted to join the training course for Sub-Inspector in the next batch.

13. The petitioner shall be given seniority with the batch in which he was earlier selected, however, he shall not be entitled to any back wages. The petitioner shall be granted seniority *qua* the said batch with all the consequential benefits.

14. The present petition is allowed in the above said terms.

15. The aforesaid order is passed having regard to the peculiar facts and circumstances of the case and shall be subject to the petitioner undergoing training in the next batch in accordance with the relevant rules.

16. The petition stands disposed of, accordingly.



17. Pending application(s), if any also stands disposed of.

NITIN WASUDEO SAMBRE, J

AMIT SHARMA, J

AUGUST 24, 2026/ng/ah