

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 8784 OF 2014

GOVIND ASHOK KHILLARE
VERSUS
THE UNION OF INDIA AND OTHERS

Advocate for Petitioner : Mr. Chavan Sanjaykumar B.
AGP for the State: Mr. K. G. Patil
Advocate for Respondents 1 to 5: Mr. S. B. Deshpande, ASG

**CORAM : S. V. GANGAPURWALA &
V. K. JADHAV, JJ.**

DATE : 7th August, 2015

PER COURT :

1. Mr. Chavan, the learned counsel for the petitioner submits that the the petitioner belongs to SC category. After following due procedure, considering the qualification, age and physical fitness of the petitioner, respondent no.5 selected the petitioner for the post of Rectt/Constable and declared him provisional qualified for the said post by order dated 08.07.2011. Learned counsel submits that the petitioner was required to undergo medical examination and after undergoing medical examination was declared qualified. Thereafter on 28.03.2012, order is also issued by respondent No.5 to the petitioner appointing him on the post Constable (GD) in the pay scale of Rs.5200-20200 with grade pay of Rs.2000/-. Pursuant to the said order, the petitioner rendered continuous service as Constable (GD) from 18.04.2012.

On 28th September, 2012, respondent No.5 directed the petitioner to undergo medical examination before duly constituted medical

Board. The petitioner appeared before the Medical Board and it was opined by the Board that the height of the petitioner is less by 1.4 cms. and declared the petitioner medically unfit. Learned counsel submits that without considering the continuous and blot less service of seven months, rendered by the petitioner, respondent No. 5 issued order dated 22.11.2012 removing the petitioner from the services on the ground that height of the petitioner is less by 1.4 cms.

2. Learned counsel for the petitioner submits that initially the petitioner was declared fit and pursuant to which the appointment order was also issued. The petitioner worked on the said post continuously for more than 7 months and thereafter on the ground of less height, removed the petitioner without following due procedure as laid down in the Statute. Learned counsel submits that it is not a case that relaxation of height is not given. There are various categories to which relaxation of height is given. Even Marathas in this region are given relaxation of height.

3. Mr. Deshpande, the learned ASG submits that the petitioner's height is 168 cm. Requirement is 170 cm. The petitioner is not eligible for the said post. Earlier the petitioner was declared provisionally fit. However, when the provisional order was issued, that discrepancy was not noticed and subsequently the medical board considered the said aspect and height of the petitioner is recorded as 168 cm. The petitioner is not eligible.

4. We have considered submissions canvassed by the learned counsel for the respective parties.

5. Rules are laid down with regard to minimum height required by candidates. This Court is required to consider the Rules operating. Eligibility criteria cannot be changed by this Court. It is within the prerogative and domain of the respondents. Relaxation of height is given to certain categories of persons. The petitioner is not one of them. As the height of the petitioner is stated to be 168 cms and minimum height required for the said post is 170 cms, we are unable to accept the case of the petitioner. As such, writ petition is disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

JPC