

COCP No.3009 of 2014(O&M)

Date of decision: 30.09.2015

Naveen Kumar

.....Petitioner

versus

Dalip Trivedi and another

.....Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Chanderhas Yadav, Advocate for
for the petitioner(s).Mr. Namit Kumar, Advocate
for respondent No.1.Mr. S.K.Mahajan, Advocate
for respondent No. 2.Rakesh Kumar Jain, J.(Oral)CM No. 20001-CII of 2015

Allowed as prayed for.

Short reply on behalf of respondent No. 1 is taken on record.

COCP No. 3009 of 2014

This petition is filed for the alleged willful disobedience of the order dated 6.05.2014 passed in LPA No. 1565 of 2013. The brief facts are that the petitioner applied for the post of Constable(General Duty). He passed through selection process i.e. written examination, physical efficiency test and physical standard test. The petitioner appeared in the written examination. Thereafter, he was called for Common Detailed Medical Test on 11.07.2012. His test was conducted on 14.07.2012 and was declared medically unfit having “knock knee”. He applied for re-examination but his prayer was rejected vide letter dated 16.10.2012.

This order was challenged by the petitioner in CWP No. 16433 of 2003 which was dismissed. In the intra court appeal bearing LPA No. 1565 of 2013, this court has held that he has been non-suited on technical grounds and not on merits. Medical examination was ordered to be re-conducted and provided that in case he is found to be medically fit then the final order may be passed. Appellate Medical Board conducted the medical test of the petitioner and found him physically fit. Thereafter, the respondent declared the result of the petitioner on merits as earlier he was non-suited only on the ground of being medically unfit. An affidavit has been filed by respondent No. 2 to which the revised result has also been attached. As per which the petitioner has secured 65 marks whereas the last candidate who had been selected had secured 72 marks. The argument raised by counsel for the petitioner is that vide order dated 6.05.2014, the authorities were directed to take action as per the Rules within two months from the date of receipt of a certified copy of this order. According to him, there was no such rule on the basis of which the result could be revised.

On the other hand, counsel for the respondent has submitted that the petitioner was declared medically unfit and therefore, his result was not declared. It is submitted that in the revised result the petitioner has been found to be medically fit but he had secured less marks than the last selected candidate.

Be that as it may, in so far as the present contempt petition is concerned, no further action is called for. However, the petitioner, if aggrieved, is at liberty to avail appropriate remedy under the law for the redressal of the grouse.

Dismissed as withdrawn with liberty granted.

30th September, 2015

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**