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

+ **W.P.(C) 4907/2015**

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Decided on : 14.10.2015

SONU KUMAR

..... Petitioner

Through: **Dr.Vijendra Mahndiyan and
Ms.Pallavi Awasthi,
Advocates**

versus

UNION OF INDIA & ORS.

..... Respondents

Through: **Ms.Bharathi Raju, CGSC with
Mr.Mohan Lal, Advocate for
respondents no.1 to 3.**

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

1. The petitioner seeks direction to the respondent that his candidature to the post of Constable (GD) in the Central Paramilitary Forces be accepted. The petitioner applied in response to an advertisement dated 05.02.2011 seeking applications for the post of Constable (GD) in the Border Security Force, Central Reserve Police Force, Central Industrial Security Force and Sashastra Seema Bal. The petitioner appeared in the written examination on 05.06.2011. In the result declared the petitioner secured 53 marks. On 17.08.2011, in the medical examination conducted, the medical board concluded that the petitioner was not eligible on account of the following conditions:

“Knock knee, sweaty palms (R) placed with (illegible) overweight”

2. The petitioner claims that he got himself re-examined in the Government hospital and obtained a certificate. He also submits that he filed an appeal against the Medical Board for determination of fitness. It is contended that the result of re-examination by the Medical Board was not made known. The petitioner's grievance is that he has recently become aware that someone securing lower marks i.e. 46 whose particulars have been mentioned in the pleadings was declared selected.

3. The respondents contend that the petition is highly belated given that the examination process was completed in 2011. They, however, admit that as a result of this court's intervention in the previous writ proceedings, the select list had to be revised on two occasions i.e. sometime in 2013 and thereafter again on 02.06.2015. These were developments by courts' directions which required the respondents to take into account forms which had not been filled with certain particulars left blank by certain candidates and on second occasion on account of medical examination of the concerned candidates as directed by the court. It is stated that so far as the objections with respect to one selected candidate who has secured 46 marks is concerned, even though such selected candidate also belonged to the OBC category, nevertheless he had given a regional preference that he had indicated he was entitled to and was therefore consequently appointed.

4. This court has considered the submissions. The first feature which this court must highlight is that the petitioner has approached the court in a highly belated manner. Concededly, the recruitment process was completed in 2011; even the petitioner's medical re-examination was conducted in November, 2011. The two revised select lists too were published due to orders of this Court's order which indicate that those who felt aggrieved approached the courts at the appropriate stages. The petitioner has no explanation for why he has approached this court after almost four years. This court is aware that in any public recruitment, the agency concerned will not only have to publish a select list but also draw a waiting list for finite duration. After waiting for the finite period the next recruitment has to be taken up. This is to give a complete picture for determination of vacancies for each year. If these constraints are kept in mind, Sashastra Seema Bal appears to have already conducted subsequent recruitment for 2012, 2013 & 2014. Even if, the petitioner's submissions were merited, the court would then be required to balance the rights of third parties who would have even completed their probation period but would all of a sudden be asked to vacate their posts.

5. So far as the submission that an unmerited candidate was selected is concerned, this court notices that the recruitment itself had indicated that the region-wise choice was given by the concerned candidate. It is contended that petitioner had opted for a general area as opposed to the naxal disturbed and other areas.

6. The Respondent contended that the candidate who is stated to have secured lower marks in fact belong to a disturbed area and therefore was instead entitled to be selected since the cut off for that category was lower. We are of the opinion that for the above reasons, no relief can be granted. The writ petition is accordingly dismissed.

**S. RAVINDRA BHAT
(JUDGE)**

**DEEPA SHARMA
(JUDGE)**

OCTOBER 14, 2015

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