

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.6361 of 2009

Date of Decision:19.12.2016

Kanwal Kumar

... Petitioner

Vs.

Union of India and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Nikhil Anand, Advocate for the petitioner.
Ms. Ranjana Shahi, Advocate for the respondents.

P.B. BAJANTHRI J. (ORAL)

In the instant writ petition, the petitioner has questioned the validity of proceedings dated 15.6.2005, orders dated 15.4.2009 and 23.4.2009 vide Annexures P-2, P-7 and P-9 respectively.

Grievance of the petitioner is relating to promotion to the cadre of Inspector. The respondents have found him unsuitable for the reasons that he is not in the medical SHAPE-I. He was in the medical SHAPE-II. For the purpose of promotion to the cadre of Inspector, one must be in medical SHAPE-I.

Perused the records and Standing Order No.4/2008 issued on 15.12.2008 relating to Health Care System in Central Para Military Forces Instructions for Medical Examination and Classification of Personnel in CPMFs. Para 4.13 relating to mandatory for the purpose of promotion of the aforementioned standing Order No.4/2008 reads as under:

“Medical Category SHAPE-I will be an essential condition for promotion of all combatised personnel in all groups/ranks/cadres in the CPMFs. In case of those whose illness is of permanent nature and who are not SHAPE-I, they will be considered for promotion by DPC but will be declared unfit for promotion, even if, they are otherwise fit for

promotion. In case of those personnel, whose illness is of temporary nature, after considering their cases for promotion along with others, if they are otherwise fit, the DPC will grade them as 'fit for promotion' subject to attaining SHAPE-I medical category. As and when they regain the SHAPE-I medical category, they will be promoted as per recommendations of DPC. But they will not be entitled to back wages. However, they will retain their seniority."

As per the DPC proceedings dated 26.2.2013, the petitioner's name has been taken into consideration and it was held that he is unfit with reference to the medical category. Further on 28.1.2016 and 4.4.2016, pursuant to the Board proceedings, the name of the petitioner appears at serial no.2 but in the proceedings, petitioner's medical category was mentioned as SHAPE-II and it was held that he is unfit for promotion.

One of the requirement for the purpose of promotion to the cadre of Inspector is medical category SHAPE-I. When the respondents while considering the case of the petitioner for promotion held that the petitioner falls under medical category SHAPE-II. Therefore, question of considering petitioner's name to the cadre of Inspector do not arise. Hence, the petitioner has not made out a case so as to interfere with proceedings dated 15.6.2005, orders dated 15.4.2009 and 23.4.2009 vide Annexures P-2, P-7 and P-9 respectively. The petitioner has not made out a case.

The present petition is dismissed.

19.12.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No