

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1202 of 2014

Date of Decision:-08.11.2016.

Indraj Singh

.....Petitioner

Versus

Union of India and others

.....Respondents

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

Present: Mr. S.K. Yadav, Advocate for the petitioner.

Mr. Sunil Kumar Sharma, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has questioned the validity of Annexure P-2 dated 23.9.2013 by which he has been declared as Under Height in the medical fitness examination on 23.9.2013 and further he has sought for a direction to re-examine his height and consider his name for selection and appointment to the post of Constable/Driver.

2.) The respondents have advertised for the post of Constable/Driver on 2.3.2013. The petitioner is one of the candidate for recruitment to the post of Constable/Driver. He was called for physical endurance test wherein the respondents have held that he is under height. Accordingly, the petitioner has been informed on 23.9.2013 vide Annexure P-2. In this regard, the petitioner submitted representation on 23.9.2013 and on 24.9.2013, the respondents have stated that they have received the

representation dated 24.9.2013 on 26.9.2013. Thereafter, the petitioner's representation/application for re-examining his height for the purpose of recruitment to the post of Constable/Driver was rejected on 4.10.2013. Hence, the present petition.

3.) Learned counsel for the petitioner submitted that prescribed height for the post of Constable/Driver is 167 Cms. Whereas, petitioner's height is 169 Cms. as is evident from the certificate issued by the Medical Officer, Narnaul, State of Haryana dated 10.12.2012 vide Annexure P-6. Therefore, the selecting authority while examining the height of the petitioner, they have wrongly held that the petitioner is under height. Thus, the petitioner's rejection to the post of Constable/Driver on the ground that he do not fulfill the minimum height standard of 167 Cms. is highly arbitrary and illegal. Further it was submitted that the petitioner submitted representation on 23.9.2013. The same was not entertained. Consequently, on 24.9.2013 one more representation was submitted. The same was received on 26.9.2013. Since process of recruitment completed on 28.9.2013 as stated in their reply statement in para 5, therefore, the respondents have erred in rejecting the claim of the petitioner for re-examining his height for the post of Constable/Driver.

4.) Per contra, learned counsel for the respondents submitted that there is no error in rejection of the petitioner's candidature since he was under height. He had to avail the remedy of appeal before the Supervising DIG for the Recruitment Centre as per para 9 of the advertisement. Para 9 of the advertisement reads as follows:-

*“9. During the process of recruitment
candidates who are not satisfied with the decision of the*

Recruitment Board may prefer appeal in writing the same day to the Supervising DIG for the Recruitment Centre and the decision of the Supervising DIG will be final. No representation after completion of recruitment process shall be entertained.”

5.) The petitioner submitted appeal on 24.9.2013 and not on the date on which physical test was conducted and he has been declared as unsuitable to the post due to under height. Consequently, his appeal/representation dated 24.9.2013 has been rejected only on the ground that the same cannot be entertained in view of the above instructions to the candidates.

6.) Heard learned counsel for the parties.

Annexure P-2 reads as under:-

“Annexure P-2

RECRUITMENT OF CONSTABLE/DRIVER-2013

REJECTION SLIP

(OTHER THAN MEDICAL UNFITNESS)

Roll Number: 080304555

Name: Indraj Singh

Father's Name: Ram Kumar

Your candidature to the post of Constable/Driver-2013 is rejected on the following grounds:-

(UNDER HEIGHT)

Sd/-

Signature of candidate

Sd/-

Astt. Commandant/Fire

Member of the recruitment board

Note: Candidates who have left the ground without receiving the rejection slip, their rejection slip will be

sent by Post under Certificate of posting.”

7.) The selecting authority while examining medical fitness of the petitioner, they have declared as Under Height. Nowhere, they have stated what is the minimum prescribed height and what is the height of the petitioner so as to say/declare that petitioner is Under Height. Therefore, the conclusion portion of Annexure P-2 Under Height is a conclusive and not supported by any reason. The reasons must have been indicated. The minimum standard height prescribed and the height of the petitioner should have been indicated. For the reasons that the petitioner is not in a position to make an effective appeal under what circumstances he has been considered as under height. In other words, without indicating/revealing the height of the petitioner, the respondents have declared him as under height. Even appellate authority may not be in a position to decide such appeal in the abse of reasons to support Under Height.

8.) Perusal of para 9 of the advertisement, that candidates are required to submit their appeal if they are not satisfied in the recruitment process, it does not say that the date of physical test conducted or any other test. Since para 9 does not indicate that if the candidate is not satisfied with the physical test, he is required to submit his appeal before the Supervising DIG for the Recruitment Centre on the same day. What has been stated in para 9 is process of recruitment. Admittedly, the process of recruitment was ended on 28.9.2013 and the petitioner's representation dated 24.9.2013 was received by the respondents on 26.9.2013. Therefore, the application for re-examining the height of the petitioner was well within the time of process of recruitment i.e. prior to 28.9.2013.

9.) Ultimately, in the present case, issue involved is whether

Annexure P-2 is a reasoned one or not so as to make effective appeal and further issue is relating to entertaining the application of the petitioner for re-examining his height with reference to para 9 of the advertisement. Perusal of Annexure P-2, it is evident that it is only a conclusive decision which is not supported by any reasons whereby petitioner has been denied to submit effect appeal.

10.) Annexure P-2 is liable to be set aside and the same is accordingly set aside. Further rejection of the petitioner's application for re-examining his height is required to be re-considered. The respondents are directed to re-consider the petitioner's height for the purpose of selection and appointment to the post of Constable/Driver pursuant to advertisement dated 2.3.2013 within a period of three months from today. If petitioner fulfills height standard for the post, he be considered for selection and extend all other service benefits on par with selected candidates.

11.) Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

November 08, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.