

CWP No.15804 of 2016

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

CWP No.15804 of 2016
Date of decision: 06.12.2016

Ramesh Kumar

..... Petitioner

Versus

Union of India and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. D.R. Sharma, Advocate, for the petitioner.

RAMENDRA JAIN, J.

The petitioner was offered the post of Assistant Intelligence Officer Grade-I (WT) subject to production of certificate of medical fitness. Petitioner submitted the same duly issued by the Government Multi-Specialty Hospital, Sector 16, Chandigarh, to the respondent-department and was allowed to join the duty on 15.04.2013 at Technical Training Centre (TTC) Dharamshala, Himachal Pradesh. Respondent-department nominated the petitioner for training to be held on 29.07.2013. However, since the petitioner was not in a position to join the training due to medical problems and unavoidable circumstances, he requested the authorities along with medical certificate advising him eight weeks rest, to consider his case sympathetically and to allow him to join the duty/training without delay as

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soon as he would recover. However, the department directed the petitioner to appear before the Medical Board at Indira Gandhi Medical College, Shimla (IGMC) on 06.09.2013 to get him medically examined from the Department of Neurosurgery and Neurology. In response thereto, vide letter dated 03.09.2013 sent through FAX, petitioner informed the authorities about his inability to appear before the Medical Board at Shimla as he was unable to travel for long journey and could not walk properly in hilly areas. He requested the authorities to constitute the Board at Chandigarh. However, the said request of the petitioner was declined vide letter dated 05.09.2013. But no further date for medical examination was informed to the petitioner. Petitioner joined back his duty on 10.02.2014. On 30.04.2014, petitioner was transferred from SIB Shimla to Intelligence Bureau Headquarters, New Delhi, where he joined on 12.05.2015 after availing the joining time. After conducting a departmental enquiry, without joining the petitioner in the same, respondent-department got verified the medical certificate of the petitioner submitted by him before the respondents. Pursuant thereto, the Principal Medical Officer vide letter dated 12.02.2014 reported back to the respondent-department that petitioner had not mentioned about his head on the medical examination papers, though he had mentioned about the same on original medical certificate. Finally, the name of the petitioner was struck off from the pay roll of Intelligence Bureau with immediate effect vide order dated 21.05.2015 passed by respondent No.2 and payment equivalent to the pay and allowances for one month in lieu of the period of one month was made to

him on the ground that petitioner had subsequently tampered the said entry

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by incorporating the word “head” below “No” before submitting the same to IB at the time of joining the post of ACIO-I/WT on 15.04.2013 at Dharamshala. On 30.05.2015 petitioner submitted a representation against the aforesaid order dated 21.05.2015. However, the same was rejected vide order dated 19.08.2015. Thereafter, petitioner filed Original Application in the Central Administrative Tribunal, Chandigarh Bench, (for short 'the Tribunal') which has been dismissed vide order dated 04.04.2016 (Annexure P-4).

2. Hence, by way of present writ petition filed under Articles 226/227 of the Constitution of India, petitioner has sought issuance of writ in the nature of *certiorari* for quashing the order dated 04.04.2016 (Annexure P-4) passed by respondent No.3 – Tribunal.

3. Learned counsel for the petitioner contended that petitioner had joined service on 15.04.2013 and had completed two years service prior to the passing of the order dated 21.05.2015, terminating his services by the respondent-department. It is further contended that the petitioner was not granted any opportunity of hearing before passing the said order. The petitioner was thoroughly medically examined by the Medical Board and nothing wrong declaring him unfit was found. Petitioner had not tampered with the declaration form filled in at the time of medical examination.

4. We have heard learned counsel for the petitioner.

5. After going through the record, it is apparent that petitioner remained absent for long intervals before the date of his termination from service on 21.05.2015. He even did not attend the prescribed training

course. At the time of his medical examination, petitioner concealed the

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fact of his surgery of brain tumour by writing “No” against column (b) of the “Candidate's Statement and Declaration Form”. Subsequently, the petitioner tampered the said entry by incorporating the word “Head” below “No” before submitting the same to the department at the time of joining his service. Petitioner did not intentionally appear before the Medical Board constituted by the IGMC on the request of the respondent-department. The service record of the applicant also does not inspire confidence. Therefore, service of the petitioner has rightly been terminated and the Tribunal has also rightly dismissed his application vide impugned order.

6. In view of the discussion above, petitioner is not entitled to any discretionary relief under the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India.

7. Dismissed.

8. Registry is directed to bring this order to the notice of the respondents.

(RAMENDRA JAIN)
JUDGE

December 06, 2016
R.S.

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No