

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) No.7804/2015

%

10th November, 2016

Dr. RAHUL KUMAR

..... Petitioner

Through: Ms. Jaya Tomar, Advocate.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. T.P. Singh and Mr. Sahaj Garg,
Advocates for R-1 & 3.

Mr. V.N. Koura, Advocate for
IOCL/R-2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition is filed under Article 226 of the Constitution of India by the petitioner/Dr. Rahul Kumar seeking directions from this Court against respondent no. 2/Indian Oil Corporation Limited to appoint the petitioner to the post of Quality Control Officer.

2. It is undisputed that pursuant to the advertisement No. RD-2014 (1) of respondent no. 2, the petitioner was successful in the written test

and in the interview, and was given the offer of employment in terms of the Letter of respondent no. 2 dated 17.12.2014. Before the grant of actual employment, however as per the guidelines applicable and forming part of the advertisement, every candidate has to undergo a fitness/medical test and has to clear the medical test as per the standards laid down in the Guidelines and Criteria for Physical Fitness for Pre-Employment Medical Examination. In the medical test so conducted of the petitioner the doctor of the respondent no. 2, declared the petitioner to be medically fit by issuing a Certificate dated 6.1.2015, but, when the petitioner went to join the department the concerned medical officer as per his note dated 12.1.2015 reported that the petitioner was medically unfit on account of vision of the left eye being 6/36. Petitioner, therefore, was again directed to undergo medical examination by respondent no. 2 and in this Medical Examination Report dated 27.3.2015 the petitioner was found to be medically unfit because his distant vision in his left eye was found to be 6/18 (P) whereas the standard requirement is that the vision in any one of the eyes cannot be worse than 6/12. Petitioner was therefore held disentitled to employment as Quality Control Officer.

3. The petitioner has filed this writ petition stating that the petitioner is a very efficient person and that the petitioner has completed his

PhD Degree from IIT Roorkee in Environmental Analytical Chemistry and has worked under a Ministry of Government of India as a Project Assistant-IV in the project titled as “Capacity Enhancement Program on Flyash Utilization”, and therefore the petitioner should be granted employment by respondent no. 2. It is also argued on behalf of the petitioner that the Guidelines and Criteria for Physical Fitness attached with the advertisement and filed as Annexure P-10 to the writ petition would not apply to engineers and officers as per Clause 2.2 of the said guidelines and criteria and therefore respondent no. 2 was unjustified in denying employment to the petitioner.

4. It is undisputed before this court that so far as the left eye distant vision of the petitioner is concerned the same does not meet the standards because the maximum permissible limit of 6/12 whereas the petitioner has an inferior vision of 6/18 (P). This Court cannot substitute its own standards and criteria which are fixed by respondent no. 2 because it is in the absolute discretion of a proposed employer to fix standards of medical fitness for its employees. Once the requirements are uniformly applied without discrimination to every appointment, the fixed standards cannot be substituted by this Court on the grounds of equity or otherwise. The

petitioner therefore clearly would not be entitled to employment on account of defective distant vision in the left eye.

5. The argument urged on behalf of the petitioner that Clause 2.2 of the guidelines does not apply to engineers and officers, and hence cannot apply for the post of Quality Control Officer, may seem to be liberally found in Clause 2.2, but, it cannot be that no medical standards at all would apply when appointment is of an engineer or officer with the respondent no. 2. Clause 2.2 must have been put in at a particular stage in the guidelines and criteria and thereafter not amended or deleted or explained, however, in the advertisement it was specifically mentioned that all the appointments to the posts under the advertisement, including the post to which petitioner applied, would have to satisfy the prescribed medical criteria/fitness. Therefore, Clause 2.2 cannot be read liberally because if Clause 2.2 is read literally and liberally it would mean that there are no medical standards at all to be complied with by a person who seeks to join as an engineer or officer with respondent no. 2 because this would create an absurdity, and which has to be avoided.

6. In view of the above discussion since the petitioner does not meet the medical standard of the respondent no. 2 with respect to distant vision in his left eye, the respondent no. 2 was justified in terms of its Letter

dated 22.4.2015 in denying employment to the petitioner by observing that petitioner was not fit for the job being medically unfit on account of having Hypermetropic Amblyopic in his left eye.

7. The present writ petition is accordingly dismissed.

NOVEMBER 10, 2016

VALMIKI J. MEHTA, J

AK

