

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.36780 of 2003

J.Chandrasekar

... Petitioner

Vs.

1. The Director General,
Border Security Force,
B/10 CGO Complex,
Lodhi Road, New Delhi-11.

2. The Commandant,
Subsidiary Training Centre,
Border Security Force,
Tekanpur, Gwalior, M.P.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order made in Proceedings No.02104 Estt-II/STC/2003/17465-70 dated 18.10.2003 and No.Estt-II/Disc/STC/BSF-2003/18726 dated 18.11.2003 on the file of the 2nd respondent, to quash the same and consequently, direct the respondents to appoint the petitioner as Constable or any other alternate suitable post and to extend all benefits both service and monetary.

For petitioner : Mr.L.Chandrakumar

For respondents : Mr.J.Madanagopal Rao

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O R D E R

Challenging the Proceedings No.02104 Estt-II/STC/2003/17465-70 dated 18.10.2003 and No.Estt-II/Disc/STC/BSF-2003/18726 dated 18.11.2003 of the 2nd respondent, discharging the petitioner from service on the ground of his colour blindness and unsuitability to work in the Border Security Force, the present Writ Petition has been filed.

2. The brief facts of the case are as follows:

The petitioner was recruited as a Constable in the Border Security Force in pursuance to an Endurance Test conducted by the Tamil Nadu Uniformed Services Selection Board. After selection, the petitioner has undergone a training. During the period of training, a medical examination was conducted. After the medical examination, the Doctor who examined the petitioner gave a report that the petitioner is suffering from colour blindness. Based on the same, the 2nd respondent by proceedings dated 18.10.2003 discharged him from service on the ground of unsuitability to work as Border Security Force due to his colour blindness. Thereafter, as per the request of the petitioner, he was referred to Medical Board and based on the report of the Medical Board, the 2nd respondent has issued the proceedings dated 18.11.2003 confirming the discharge of the petitioner from the Border Security Force. Hence, the present Writ Petition.

3. Learned Counsel appearing for the petitioner would submit that without proper medical examination and without giving an opportunity to the petitioner to establish his right to conduct re-medical examination, the 2nd respondent arrived at a hasty conclusion that he is suffering from colour blindness. Hence, the present Writ Petition has to be allowed.

4. The learned Counsel for the respondents would submit that during the training period, the authorities have a right to conduct medical examination and also vested with the powers to send the petitioner for medical examination. After medical examination, the Doctor who examined the petitioner certified that the petitioner is suffering from colour blindness and thereafter also, as per the request of the petitioner, he was referred to the Medical Board and the Medical Board Doctor also declared that the petitioner is suffering from colour blindness. The learned Counsel for the respondents would also rely on the rules and regulations of the Border Security Force with regard to the procedure, mode of enrolment and other conditions of service. Therefore, he would pray to dismiss the present Writ Petition.

5. Considered the submissions made on either side and I have also gone through the materials available on record.

6. A perusal of the BSF Rules 1969 would go to show that in part-II of Appendix-I of Rule 13, conditions of service have been given. In service Condition No.2, it has been mentioned that anyone will be liable to be discharged during the two years of the service if he is not likely to become an efficient member of the Force. Therefore, it is clear that the respondents have power to discharge the service of any person working under them within a period of two years and further, in the case on hand,

the petitioner is only a trainee. Therefore, it is for the authority concerned to decide the eligibility of the petitioner regarding his medical fitness to continue to work in Border Security Force. Therefore, I find no infirmity in the orders passed by the 2nd respondent.

7. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General,
Border Security Force,
B/10 CGO Complex,
Lodhi Road, New Delhi-11.
2. The Commandant,
Subsidiary Training Centre,
Border Security Force,
Tekanpur, Gwalior, M.P.

+1cc to Mr.J.Madanagopal, Advocate, S.R.No.66156

W.P.No.36780 of 2003

PVS (CO)
GN(12/10/2017)

सत्यमेव जयते

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