

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19634 of 1996 (O&M)

Date of Decision:-25.08.2017.

Raj Kumar

.....Petitioner

Versus

United India Insurance Company Ltd. and another

.....Respondents

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

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Bhupinder Malik, Advocate for the petitioner.

Mr. V. Ramswaroop, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has challenged the validity of Annexure P-5 dated 13.11.1996 by which his claim for appointment to the post of Sub-Staff has been rejected on the score that he was medically unfit to hold the said post.

Petitioner was a candidate for recruitment to the post of Sub-Staff pursuant to the advertisement issued by the respondent. Petitioner was selected and was about to be appointed. Before issuance of appointment order, petitioner was subjected to medical examination. Annexure P-2 and P-3 are the medical reports conducted on behalf of the respondents-Insurance Company. Perusal of both the medical reports, it is evident that petitioner was medically and physically fit for the appointment in the respondents-Insurance company. The respondents are relying on certificate issued by the Defence Authority wherein petitioner has been released re-survey medical Board on 10.5.1991 on account of Bronchil ctasis. While issuing certificate, it was stated that petitioner is fit for suitable/sedentary employment in civil. In view of the certificate, in fairness, respondents

should have subjected the petitioner for review medical in respect of Bronchitis. On the other hand, they have relied on certificate issued by the Defence Authority. At the same time, reasons have not been assigned as to why the petitioner is not fit and suitable for sedentary employment in civil when the certificate is very specific that petitioner is fit for suitable/sedentary employment in civil. Even though petitioner is entitled for re-consideration of his selection and appointment to the post of Sub-Staff. It is not appropriate at this distance of time to direct the respondents to reconsider the petitioner's claim for selection and appointment to the post of Sub-Staff by subjecting him for review medical examination. Moreover even if he is appointed he would be rendering for about 3 years. Instead of giving direction to the respondents, to reconsider the petitioner's name for selection and appointment to the post of Sub-Staff subject to review medical examination, it is appropriate to dispose of the present petition directing the respondents to pay a cost of the litigation i.e. a sum of ₹ 1,00,000/- to the petitioner. The same shall be paid by the respondents within a period of 3 months from today, failing which petitioner is entitled to interest @ 6% per annum from the date of this order.

With the above observations, petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

August 25, 2017.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.