

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10247 of 2017 (O&M)

Date of Decision: 15.05.2017

Biranchi Saw

... Petitioner

VS.

Union of India & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

Present: Mr. DR Sharma, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) The appellant assails the order dated 24.08.2016 passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') whereby his claim for directing the authorities to relax and promote him to the post of Inspector (Central Excise) has been rejected.

(2) The petitioner joined the Department as Lower Division Clerk and later on was promoted as Senior Tax Assistant. The next promotional post is that of Inspector (Central Excise). It is not in dispute that recruitment to the post of Inspector (Central Excise) is governed under the Central Excise and Land Customs Department Inspector (Group 'C' Posts) Recruitment Rules, 2002. Under the Rules, the relevant part whereof has been extracted by the Tribunal in its impugned order, a candidate is mandatorily required to have height of 157.5 cms as one of the eligibility condition in the physical test which is required to be qualified for promotion to the post of Inspector (Central Excise). The physical test was held on 17.06.2014 and petitioner's height was measured as 150.5 cm. Since he was not possessing the requisite height, the Departmental Promotion Committee declared him unfit and thus did not recommend his name for promotion. The petitioner challenged the above-stated

treat him eligible for promotion. Such claim was founded upon two reasons. Firstly, that when differently-abled candidates are being given relaxation for promotion and 3% posts of Inspectors have been reserved for them then why not the petitioner be also extended the same benefit. Secondly, the competent authority has granted relaxation to some employees belonging to particular Tribes and communities.

(3) The Tribunal has repelled both the reasons and dismissed the petitioner's OA.

(4) We have heard learned counsel for the petitioner at a considerable length and gone through the record. Neither the petitioner can claim relaxation of Rules as a matter of right nor he has made out a case of discrimination. The petitioner could be heard complaining denial of relaxation only if such a discretionary benefit was extended to similarly placed employee(s). The competent authority has not granted relaxation to any individual. It is only as a matter of policy that the employees belonging to specified Tribes and communities have been granted height relaxation to which the petitioner admittedly does not belong. Similarly, the petitioner cannot claim parity with differently-abled persons who constitute a separate and distinct class under the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

(5) Dismissed.

(Surya Kant)
Judge

15.05.2017
vishal shonkar

(Sudip Ahluwalia)
Judge