

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No. 3120 of 2017 (O&M)
Date of decision: 26.5.2017

Kuldeep Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. DS Kahlon, Advocate
for the petitioner.

Ms. Lavanya Paul, AAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioner herein is aggrieved against the denial of appointment on the post of Constable on account of not having the necessary height.

2. The State of Punjab invited applications by way of advertisement dated 23.11.2016 for filling up of 289 vacancies of male and female Constables against 3% sports quota in different cadres of the Punjab Police. The petitioner applied on-line under the 'shooting category' and was given admit card. He was called for physical examination, including height measurement but his candidature was rejected on account of the fact of having height less than 5 feet 5 inch, as prescribed in the advertisement. He represented against the wrong determination of his height and asked for re-examination but his request was not considered. Aggrieved the instant writ petition has been filed.

3. Mr. D.S. Kahlon, learned counsel appearing on behalf of the

petitioner, contends that the petitioner has been wrongly denied the appointment despite having the requisite qualification to be appointed. He has got a number of medals in shooting in different events and is National player in the said category, having represented the State of Punjab in different events. He had applied for another recruitment held by the respondent-Department for the post of Constable (Hardware and Software) selection in the IT & Telecommunication Wing and as per measurement undertaken by the Department in that selection his height has been assessed to be 5 feet 5 inch on 26.9.2016 and, therefore, his height has to be treated as 5 feet 5 inch. Mr. Kahlon, learned counsel for the petitioner urged this Court for re-examination of the height of the petitioner.

4. Per contra, Ms. Lavanya Paul, learned counsel appearing on behalf of the respondent—State, vehemently argues that the height of the petitioner has been correctly measured by the recruiting authority and it has been found to be less than 5 feet 5 inch, therefore, disqualifying the petitioner from appointment.

5. This Court by order dated 17.2.2017, decided to get the height of the petitioner measured by an independent body and, therefore, directed the petitioner to deposit a sum of Rs. 10,000/- with the Registry. It was further directed that on deposit of the said amount with the Registry, the petitioner would appear before the Civil Surgeon, Jalandhar on 23.2.2017 with a further stipulation that in case the petitioner meets the specific standard as laid down in the advertisement, the amount so deposited would be refunded to him, however, on failing, the amount would be forfeited to the Mediation and Conciliation Centre of this Court.

6. Pursuant to the order passed, the petitioner appeared before the

Civil Surgeon, Jalandhar, who submitted his report that the petitioner was measured on 1.3.2017 in the office of the Civil Surgeon, using standardized equipment “*stadiometer*” having grading in centimeters and the height of the petitioner was found to be 166 cms. This measurement by the Civil Surgeon was disputed by the respondent-Department on the ground that the Department was unaware whether the “*stadiometer*” used by the Civil Surgeon in measuring the height of the petitioner had been verified from the Department of Weight and Measure, Punjab, as mandatory as per the provisions of Legal Metrology Act, 2009 and the Legal Metrology (General) Rules, 2011. Since the respondents doubted the correctness of the height report given by the Civil Surgeon, which is one of the Departments of the Punjab itself, this Court then by order dated 17.5.2017 requested the Director, Postgraduate Institute of Medical Science and Research, Chandigarh, to constitute a Medical Board to verify the height of the petitioner.

7. Pursuant to the order dated 17.5.2017, the petitioner appeared before a Medical Board on 24.5.2017 at 4 p.m. and was subjected to physical measurements of his height. The Medical Board so constituted consisted of Dr. Pebam Sudesh, Chairman, Dr. Somya Saxena, Member and Dr. Perna Babbar, Convener and as per the report furnished, the petitioner's height was measured in the presence of the members of the Board and was found to be 166 cms. Copy of the medical report is retained on the court file.

8. Ms. Lavanya, appearing on behalf of the State valiantly attempted to justify denial of appointment to the petitioner. However, the arguments, as raised, are not acceptable to this Court. The Director,

PGIMER, constituted a Medical Board which has no vested interest in any of the candidates as referred by this Court. The Medical Board was comprised of Dr. Pebam Sudesh, Professor, Department of Orthopaedics, PGIMER, who would be the most competent person to measure the height of the petitioner. Needless to mention that the height of 166 cms as measured by the Medical Board is in tandem with the report of the Civil Surgeon, Jalandhar. Therefore, this Court has no hesitation in relying upon the report as furnished by the Medical Board duly constituted by the Director, PGIMER.

9. Resultantly, the above writ petition is allowed and it is held that the petitioner's height is 166 cms which is more than 5 feet 5 inch and, therefore, his candidature had wrongly been rejected on this count. The petitioner would be entitled for consideration for the post applied for under the advertisement, if he fulfills all the other criteria laid down for selection to such a post. Let the needful be done within a period of two months from the date of receipt of a certified copy of this order.

10. The amount of Rs. 10,000/- deposited by the petitioner in pursuance of the order dated 17.2.2017 be released to him.

11. The writ petition is allowed of on the above terms.

26.5.2017

prem

(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No