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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1379/2017

SATYAVEER

..... Petitioner

Through

Mr. Om Bir Singh Mandaar,
Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Through

Mr. Sarat Chandra and Mr. Sachin
Chandra and Ms. Poonam Saha,
Advocates
Mr.S.S.Sejwal, Law officer, CRPF

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **17.02.2017**

CM No. 6355/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

WP(C) No. 1379/2017

This writ petition is directed against the disqualification of the petitioner for appointment to the post of Constable driver in the Central Reserve Police Force (CRPF). A preliminary objection has been taken by the respondents to the territorial jurisdiction of this Court to entertain the writ petition. It is, however, not in dispute that

the headquarters of the CRPF are located in New Delhi. The employment notice was also issued from the Headquarters in Delhi. However, the petitioner appeared for the selection tests (written test, physical endurance test and trade test) at Sultanpur, Allahabad, U.P. The medical examination and the appeal Medical examination also took place in Allahabad.

Under Article 226 (1), a writ may be issued by the High Court to any authority located within its jurisdiction. This High court has jurisdiction under Article 226 (1) to entertain this writ petition, since the Headquarters of CRPF are located in Delhi. The employment notice was also issued from the headquarters of CRPF, located within the jurisdiction of this Court.

We have earlier declined to entertain some similar writ petitions and remitted the writ petitioners to Allahabad High Court, invoking the principles of forum non conveniens since the entire cause of action had arisen within the jurisdiction of that Court and the relevant records were located within the jurisdiction of that Court. There was no justification shown for invoking the jurisdiction of this Court. In this case, it appears that the petitioner is a resident of

Ghaziabad which though located in the State of UP, can almost be considered as part of Delhi for all practical purposes. Delhi is far closer to Ghaziabad than Allahabad or Lucknow where a Bench of Allahabad High Court is located.

It cannot be said that the jurisdiction of this Court has been invoked with any ulterior intent. We are, therefore, not inclined to reject the writ petition by invoking the doctrine of forum non conveniens.

The petitioner is a candidate for the post of Constable Driver in the CRPF. According to the petitioner, the petitioner appeared for and qualified in the written test, physical test and the trade test.

After the petitioner cleared the aforesaid tests, the petitioner was required to appear for medical examination at the Government Hospital, Sultanpur, Amethi.

The petitioner was, however, disqualified on the ground that the vision in his right eye was 6/12, the vision in his left eye was 6/9 and he was found to be colour blind.

The required distant vision as prescribed is 6/6. Colour blindness is a disqualification. In fact colour blindness renders an

applicant ineligible for a driving licence. There can be no question of selection of a colour blind person for the job of a Constable driver.

The petitioner was informed that he could appeal against the findings of the medical board after getting himself examined in a Government Hospital. The petitioner got himself examined by MMG Hospital, Ghaziabad where he was declared fit. His distant vision was found to be 6/6 in both the eyes and he was found not to suffer from colour blindness.

After the petitioner appealed, the petitioner was referred to Composite Hospital of the CRPF at Allahabad. In appeal, it appears that the petitioner was found not to be colour blind. However, his distant vision of the right eye was found to be 6/9 and of the left eye 6/12. The finding of the Appellate Medical Board in respect of distant vision of the petitioner is exactly opposite the finding of the medical board.

The petitioner has annexed medical prescriptions of VMMC including Safdarjung Hospital which indicate that the distant vision of both the eyes was 6/6, that is within the prescribed limit and the petitioner did not suffer from colour blindness.

It is not for this Court to decide whether the petitioner is medically fit or not. It is not for this Court to analyse different medical certificates and decide which one is correct. There can be no doubt that the medical standards are binding. However, in view of glaring contradictions between the reports of the medical board and the appellate medical board, we deem it appropriate to direct the respondents to refer the petitioner to the Army Research and Referral Hospital in Delhi for a review medical examination within six weeks from date. The Army Research and Referral Hospital shall constitute a medical board comprising Eye Specialists of repute to examine the petitioner. The candidature of the petitioner shall abide by the result of the medical examination by the medical board constituted by the Army Research and Referral Hospital.

The writ petition is disposed of.

A copy of this order be given *Dasti* under the signatures of Court Master.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

FEBRUARY 17, 2017/mw