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

+ W.P.(C) 1029/2017 and CM No. 4711/2017 (stay)

SHRI RAJU PAL

..... Petitioner

Through Mr. Bijender Singh and Ms. Vidushi,
Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr. Manish Mohan, CGSC along
with Mr. Shivam Chanana,
Ms. Manisha Saroha, Advocates and
Mr. S.S. Sejwal, Law Officer, CRPF
for respondents.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

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13.02.2017

In this writ petition, the petitioner has challenged the final list dated 09.01.2017 of candidates selected to the post of Head Constable/Constable (General Duty) in the Central Reserve Police Force in the Sports Quota.

In November, 2015, an advertisement was published inviting the applications for the post of Constable (General Duty) in the CRPF against the Sports Quota.

Candidates with proficiency in Volley Ball were eligible amongst others to apply for the post of Constable against the Sports Quota. On 09.01.2017, a list of selected candidates was published. The petitioner's name was not included in the said list.

Mr. Mohan appearing on behalf of the respondents submits on instructions that 9 candidates were selected. The petitioner could not be selected as his rank was 10th in order of merit.

The application form of the petitioner reveals that the petitioner had participated in two national events and in three inter –university events. It does not appear that he secured any gold or silver medal.

The list of selected candidates indicates that the first candidate who was selected for the post of Head Constable secured silver medal in National Games in 2013. The other candidates participated in games at the national level and at the school level. From the list produced in the Court, it appears that marks were also given for educational qualifications apart from proficiency in sports.

The advertisement inviting applications notified the selection process to all candidates. Paragraph 10 of the advertisement is extracted herein below for convenience.

“SELECTION PROCESS

All eligible candidates whose application form is found to be in order will be issued admit card/call letter to appear in the recruitment process i.e. trial/interview. Candidates will have to undergo the following process of recruitment:-

- a) Identify check*
- b) Checking of Testimonials/documents*
- c) Physical Standard Test as mentioned in Recruitment Rules*
- d) Sports Trial Test of Candidates for their respective Sports discipline*
- e) Medical Examination.”*

All the candidates were required to go through the Sports Trial

Test for their respective sports discipline, as also Physical Standard Test. When such tests are conducted, this Court exercising jurisdiction under Article 226 of the Constitution of India cannot either sit in appeal over the selection or make a comparative assessment of the suitability of the respective candidates. This Court cannot decide whether a candidate has rightly been given more marks than another or decide which candidate should have been awarded the highest marks.

It was also urged that one of the candidates who had been disqualified at the medical test was selected. Had he not been selected, the petitioner might have qualified. However, according to the respondents the candidate, namely Pradeep Singh, had exercised his right of appeal against the medical test result and in appeal, he succeeded. He was cleared upon medical examination.

It is well settled that the onus lies on him who alleges to substantiate the allegations. The petitioner has filed the writ petition alleging irregularities in the selection. It is, therefore, for him to establish that there have been irregularities. It is not for this Court to call upon the respondents to refute the contentions of the petitioners and then produce materials to substantiate their defence. It is also not for this Court to make a roving, fishing enquiry to find out whether the selection process was in accordance with law or not. Of course, if a prima facie case of illegality or irregularity had been made out by the petitioner, the situation might have been entirely different, for the respondents would have to establish that the selection was in accordance with law. That is not the case here.

The writ petition cannot be entertained and the same is dismissed. The pending application shall also stand disposed of.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

FEBRUARY 13, 2017/rs

