

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10667 OF 2017
WITH
CIVIL APPLICATION NO. 373 of 2018

Vijay Ranu Bhoge	.. <u>Petitioner</u>
Versus	
Union of India and others	.. <u>Respondents</u>

Shri Ashutosh S. Kulkarni, Advocate for Petitioner.
Shri Bhushan Kulkarni, Standing Counsel for Respondent Nos. 1 and 2.
Respondent No. 4 served.

CORAM : **S. V. GANGAPURWALA &**
A. M. DHAVAL, JJ.

DATE : **5th April, 2018**

PER COURT :

1. Heard learned counsel for the petitioner and learned counsel for the respondents.
2. The petitioner is seeking directions against the respondent No. 2 to give appointment to the petitioner and / or to include the name of the petitioner in the final select list.
3. Pursuant to the advertisement, the petitioner had applied

for the post of Constable / Driver in the Central Industrial Security Force (hereinafter referred to 'CISF'). The petitioner was provisionally selected and sent to the medical board. The petitioner was declared as medically unfit on the ground that the tattoo mark on the inner aspect of right forearm , dorsum of right hand and fingers exist. So also, specific gravity of urine was more. The petitioner thereafter preferred review. The medical board held that the tattoo on the outer aspect of right forearm is removed and tattoo on the outer aspect of right hand is partially removed ie. has not gone completely, hence was declared unfit. The specific gravity of urine was within the limits. The petitioner has been declared unfit only on the ground that the partial tattoo exist on outer aspect of right hand.

4. We had asked the learned counsel for the respondents as to the existence of any rule disqualifying a person on the ground of tattoo being seen on his right hand. It was communicated to us that no such rule exists. However, the same is based on the communication issued by the Ministry of Home Affairs, through Under Secretary to the Government of India. A communication

is also produced saying that the clause referring to tattoo may not be made applicable to Sub-inspectors. The post of Sub-Inspector is a higher post. The clause in the advertisement also prescribed that candidates having permanent tattoo on any part of the body will be debarred from recruitment in CISF. The said clause is also not in conformity with the directions issued by the Under Secretary in its letter dated 12th January, 2017, and 30th January, 2017, which is basis for the advertisement. Under the said instructions the tattoos are permitted on traditional sites of the body like inner aspect of the forearm but only left forearm, being non saluting limb or dorsum of the hands are to be allowed. The clause in the advertisement is even deviating from the said instructions.

5. We fail to understand that the disqualification on the ground of tattoo is not made applicable to the post of Sub-Inspector but is being made applicable for the post of Constable / Driver. The same does not stand to any reason.

6. It is further submitted that the tattoo mark on the outer

aspect of right forearm is completely removed and tattoo on the outer aspect of right hand is removed to the extent of 90% and within due course the same would be completely removed and today even it is not in an identifiable position.

7. Similar issue was also subject matter of consideration before this court at its Principal Seat in Writ Petition No. 10026 of 2017. This court had directed to consider the claim of such candidate.

8. Considering the above conspectus, we direct the respondents to consider the petitioner for the post of Constable / Driver and he shall not be disqualified on the ground that tattoo partially exist on his outer aspect of right hand.

9. With these observations, the writ petition is allowed.

10. In view of disposal of writ petition, civil application also stands disposed of.

[A. M. DHAVALA, J.]
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[S. V. GANGAPURWALA, J.]