

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.V.M.P.No.4264 of 2017 in W.P.No.23999 of 2017

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W.P.No.23999 of 2017

ORDER:

Heard learned counsel for the petitioner, Sri D.Balakishan Rao, learned Standing Counsel for 1st respondent and the learned Government Pleader for Services-I for respondent Nos.2 and 3.

2. Petitioner belongs to the Schedule Caste community. 137 vacancies of Transport Constables were notified vide Notification No.5 of 2015. Petitioner possessed requisite qualifications and also according to the petitioner, he possessed the prescribed physical requirements, height, chest aspiration etc.

3. Petitioner contends that he was issued Hall ticket for the written examination and on being successful therein, also attended verification of the Certificates for the purpose of medical examination; that his name was included in the result declared on 10-01-2017; but subsequently his name was omitted from the list of provisionally selected candidates for appointment published on 03-05-2017.

4. According to the petitioner, during the medical examination conducted in the Osmania General Hospital, measurements were not taken properly as 246 candidates were examined in a small room in a hurried and frenzied manner on

30-01-2017 and 31-01-2017; that petitioner had given representations on 24-06-2017 and 29-06-2017 requesting that he be subjected to re-medical examination, but his request was not acceded to. He therefore sought a declaration that he was entitled to be appointed as Transport Constable in one of the vacant posts notified vide Notification No.5 of 2016 with all consequential benefits by allowing him for re-medical examination.

5. On 20-07-2017, the following interim direction was granted by this Court:

“Notice before admission returnable in three (03) weeks.

Sri D.Bala Kishan Rao, Standing Counsel takes notice for 1st respondent and the Government Pleader for Services takes notice for respondents 2 to 4.

Pending further orders, petitioner shall be referred by the 1st respondent to the Medical Board of the 4th respondent-Hospital for measurement of chest inspiration and for the test of vision, to the Medical Board of the Sarojini Devi Eye Hospital, Mehidipatnam, Hyderabad, within a period of six (06) weeks from the date of receipt of a copy of this order and within two (02) from the date of receipt of result of the said medical examinations, petitioner shall be communicated the said results; and if the petitioner is found to fulfill the requirements for appointment as Transport Constable, the 1st respondent shall then consider petitioner's case for appointment in the said post, if vacancies are available.”

6. Application in W.V.M.P.No.4264 of 2017 was filed by the 1st respondent to vacate the said order.

7. In the said application/counter, in regard to the allegation leveled by the petitioner regarding the hurried and frenzied manner of

conducting medical test, it is merely contended by the 1st respondent that the other candidates who attended did not complain.

8. The Superintendent of Osmania General Hospital, Hyderabad, also filed a counter affidavit taking same stand without specifically denying the specific allegation of the petitioner about the conduct of the medical examination of the petitioner and others on 30-01-2017 and 31-01-2017 by merely stating that nobody has complained about it. It is stated that if the 1st respondent again referred the petitioner for re-medical examination, the 4th respondent would conduct re-examination and submit report.

9. According to the petitioner, there is discrepancy of one centimeter in the height because of improper measurement and the alleged discrepancy in the eye vision is in fact not correct because he got his vision checked on 04-07-2017 in Sarojini Devi Eye Hospital, Hyderabad and the said result shows that he had perfect 6/6 vision in both the eyes.

10. Having regard to the above stand taken by the respondents, since there is no specific denial about the allegation levelled by the petitioner, regarding manner of conduct medical examination as regards the petitioner that the medical examination was conducted in hurried and frenzied manner in a small room with 246 candidates, and since it is the stand of the respondents that the petitioner was only one centimeter short and there is also some

discrepancy about vision, which could be ascertained by re-medical examination, the Writ Petition is allowed and the 1st respondent is directed to refer the petitioner to the Medical Board of the 4th respondent-hospital for measurement of the chest aspiration and for the test of petitioner's vision to the Medical Board of Sarojini Devi Eye Hospital, Masab Tank, Hyderabad, within six weeks from the date of receipt of a copy of this order; and within two weeks from the date of receipt of result of the said medical examination, petitioner shall be communicated the result; and if the petitioner is found to fulfill the requirements for appointment as Transport Constable, then the 1st respondent shall issue appointment order to the petitioner for the said post, if vacancies are available.

11. Consequently, W.V.M.P.No.4264 of 2017 is dismissed.

12. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-12-2018

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