

IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14497-2013 (O&M)

Date of decision: 02.04.2018

Rajesh Kumar

...Petitioner

V/s.

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. B.S. Rana, Sr. Advocate with
Mr. Parveen Kaushik, Advocate
for the petitioner.

Mr. Rajvir Singh Sihag, Advocate
for the respondents.

P.B. BAJANTHRI, J. (Oral)

In the instant petition, petitioner has challenged order of discharge dated 19.01.2013 (Annexure P-6) as well as Appellate Authority decision rejecting the petitioner's appeal dated 28.01.2013 (Annexure P-7). The petitioner is stated to have been appointed as a Constable on probation for a period of two years from 05.03.2010 to 04.03.2012. Before confirming the services, respondents subjected the petitioner to medical examination. In the medical examination, they found that he was not able to speak properly and he was stammering.

Learned counsel for the petitioner submitted that stammering is not one of the items for disqualifying or discharging a Constable in view of Rule 17 of CISF Rules 2001 read with Appendix C. Therefore, the respondents have committed error in discharging the petitioner from service only on the score that he was stammering.

Per contra, learned counsel for the respondents vehemently

contended that petitioner was discharged with reference to stammering issue read with the condition No. 4 of the order of the appointment dated 05.03.2010 (Annexure P-1) wherein one of the conditions is that petitioner should be fit for permanent appointment in view of the fact that petitioner was subjected to Medical Board and he was found stammering. Thus, there is no infirmity in the order of discharge as well as the appellate authority order.

Heard the learned counsel for the parties. Petitioner is relying on Rule 17 of CISF Rules 2001 read with Appendix C to the extent that there is no disqualification if a probationer is suffering from stammering. Therefore respondents' action in discharging the petitioner from service based on the medical report of stammering could be contrary to Rules. It was also contended that even guidelines dated 13.07.2011 (Annexure A-1) are not attracted for the purpose of discharging petitioner from service on account of his stammering. It is to be noted that in the order of appointment, condition No. 4 reads as under:-

“The appointing authority may discharge you from service at any time during the period of probation, if in their opinion, your work or conduct during this period is considered unsatisfactory, or shows that you are not fit for permanent appointment.”

Subjecting probationer for medical fitness and wherein petitioner was found that he was stammering and it has been taken note of for the purpose of holding that petitioner is not fit for permanent appointment would suffice for discharging the petitioner from service. Rule 17 of CISF Rules 2001 read with Appendix C is relevant for the purpose of initial recruitment and could not be attracted to confirm a probationer. CISF is a disciplined force for which medical fitness is one of

the priorities to continue in service. Therefore, there is no infirmity in the order of discharge dated 19.01.2013 read with Annexure A-2 Medical Board opinion to the extent that petitioner is suffering from serious stammering. Thus, the petitioner has not made out a case.

Petition stands dismissed.

At this stage, learned counsel for the petitioner submitted that while discharging the petitioner from service, they have quoted Rule 91(B) which relates to recruitment. Merely quoting a wrong Rule does not vitiate order. Therefore the aforesaid contention of the petitioner is hereby rejected.

02.04.2018

Divyanshi

**(P.B.BAJANTHRI)
JUDGE****Whether speaking/reasoned : Yes/No****Whether reportable : Yes/No**