

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-254-2018 (O&M)
Date of Decision: 15.05.2018

Jaimal

--Appellant

Versus

State of Haryana & others

--Respondents

**CORAM:- HON'BLE MR.JUSTICE AJAY KUMAR MITTAL,
ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA**

Present:- Mr. Arjun Sheoran, Advocate for the appellant.

TEJINDER SINGH DHINDSA.J

1. The instant appeal has been filed under clause X of the Letters Patent against judgement dated 14.12.2017 passed by the learned Single Judge dismissing the writ petition filed by the appellant and wherein challenge was to an order dated 23/25.4.2013 rejecting his claim for appointment to the post of Constable.

2. Brief factual matrix is that in the year 2010, 675 posts of Constables were advertised in 4th I.R.B, Gurugram. Appellant belongs to the General Category and subjected himself to the process of selection and in the final merit drawn his name figured at Sr. No.257 in the General Category. Each selected candidate was to undergo a medical examination. Appellant appeared before the Civil Surgeon, Gurugram and was declared temporarily unfit and referred to P.G.I.M.S., Rohtak for taking an expert opinion from the Orthopedic Surgeon. On 26.7.2011 appellant was examined by a Board consisting of three doctors of P.G.I.M.S., Rohtak and was held to be unfit for the post of Constable on the basis that he was suffering from a disability described as “genu valgum (right) lower limb (Knock Knees). Apparently, the Director General, Health Services, Haryana

was then approached by the appellant and he was medically examined at P.G.I.M.E.R., Chandigarh as also by an expanded Board of Doctors of P.G.I.M.S., Rohtak and wherein it was opined that appellant was medically fit. At that stage appellant filed CWP No.25635 of 2012 and which was disposed of on 20.12.2012 with a direction to the Director General of Police, Haryana to take a final decision with regard to claim of the appellant. In purported compliance of the directions issued by this Court the order dated 23/25.4.2013 was passed rejecting the claim of the appellant and which was assailed by filing CWP No.23994 of 2013 and which in turn had been dismissed in terms of impugned judgement dated 14.12.2017.

3. Learned counsel has contended that the view taken by learned Single Judge is erroneous as the subsequent medical examination was not done at the own end of the appellant but was in pursuance to an appeal that had been filed to the Director General, Health Services, Haryana. It is urged that once the medical examination initially done was not proper and recourse had been taken through the office of the Director General, Health Services, Haryana, the subsequent medical examination and recommendation had to be given due weight. Further argued that the subsequent medical examination was done at the hands of an expanded Medical Board consisting of six doctors and the opinion of such expanded Board had to prevail upon the previous opinion given by Board of Three Doctors of P.G.I.M.S., Rohtak. Vehemently contended that under such circumstances the order passed by the D.G.P., Haryana rejecting the claim of the appellant for the post of Constable was unjust and arbitrary and the writ petition assailing such order has been wrongly dismissed.

4. Learned counsel has been heard at length and the case paper book has been perused.

5. Admittedly, the recruitment process in which the appellant had participated was initiated by the Police Department. After selection, and prior to joining medical examination is a prerequisite. Appellant was duly examined by the Civil Surgeon, Gurugram and thereafter referred for expert opinion before a duly constituted Medical Board of Doctors of P.G.I.M.S., Rohtak. He was declared medically unfit and as such denied appointment.

6. We are of the considered view that grievance, if any, of the appellant as regards his medical examination and having been declared unfit ought to have been agitated before the recruiting department. The appeal that the appellant preferred before the Director General, Health Services, Haryana had no sanctity in law. Any direction that may have been issued as regards further medical examination cannot be granted recognition as such procedure was alien to the advertisement in response to which the appellant had applied for the post in question. If, such a course of action was to be accepted, then, in every selection process, candidates not found medically fit would embark upon getting repeated medical examinations conducted and a selection process would never attain finality.

7. Even otherwise, the appellant was strictly bound by the terms and conditions of the advertisement. No clause under the advertisement has been adverted to by learned counsel under which an appeal was maintainable to the Director General, Health Services, Haryana after a medical examination having already been conducted by a Board of Doctors of P.G.I.M.S., Rohtak.

8. We are in agreement with the view taken by the learned Single Judge in upholding the order of rejection of the appellant for the post of Constable on the basis of the previous medical examination and which was part and parcel of the recruitment process itself.

9. We do not find any merit in the present appeal and the same is, accordingly, dismissed.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

15.05.2018

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No