

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.7197 of 2019

ORDER:

This Writ Petition is being disposed of at the admission stage with the consent of both the parties.

2. This Writ Petition is filed seeking a Writ of Mandamus directing the respondents to re-examine/re-conduct the Physical Measurement Test (PMT) and Physical Efficiency Test (PET) in respect of the petitioner.

3. Heard Sri N.Joy, learned counsel for the petitioner and Sri M.V. Rama Rao, learned Standing Counsel appearing for 2nd respondent.

4. The petitioner submits that he has responded to the Notification issued by the respondents for appointment to the post of Police Constable and he was declared to have qualified in the preliminary written examination. Later, he was subjected to PMT on 11-02-2019. He further submits that the respondents erroneously recorded the measurement of his chest expansion as '0' and rejected the case of the petitioner. Thereafter, the respondents had issued another performance sheet, which was down loaded by the petitioner from their web site, wherein the chest expansion measurement was recorded as "4.7" cms. The petitioner further submits that as per the recruitment notification, the bench mark for height to qualify in the

PMT is 167.6 cms and for chest expansion is more than 5 cms. The petitioner further submits that because of the erroneous recording of chest expansion measurement, his case was rejected. He further submits that he himself got examined with the Osmania General Hospital (OGH), Hyderabad on 16-03-2019 and as per the Report issued by the OGH, the petitioner is having '6' cms chest expansion and thereafter, he submitted representations on 18-03-2019 and 25-03-2019 to the respondents to re-examine him and take fresh physical measurements as great injustice was done to him.

5. Learned counsel for the petitioner relied upon a judgment rendered by the High Court of Jammu and Kashmir reported in **State of Jammu and Kashmir Vs. Zafeer Ahmad¹** and contended that in that case, the written examination was scheduled to be held on 09-07-2014 at Kala Kendra, Jammu and the respondent candidate in that case was given an intimation on 26-06-2014 mentioning his application form serial number as "172062" and the respondent-candidate on 01-07-2014 itself, made a representation to the appellants seeking correction of his application serial number "172062" to that of "172082". But the appellants had not entertained the request and later on, postponed the examination. In spite of the same, respondent-candidate was not permitted to appear examinations. In those set of circumstances, the High Court gave a direction to the appellants that respondent-candidate be permitted to

¹ 2015 SCC On Line J&K 27 = 2015 Lab IC 3034

appear for the examination because the respondent-candidate cannot be penalized for the mistake committed by the appellants.

6. Therefore, learned counsel for the petitioner contended that following the said judgment, appropriate directions be given to the respondents to re-conduct PMT in respect of the petitioner because respondents have initially recorded chest expansion as '0' erroneously and later on, they have corrected it as '4.7' cms.

7. Per contra, learned Standing Counsel for the respondents contended that the PMT for all the candidates is over on 28/29-03-2019 and at this stage, the case of the petitioner cannot be considered. He further contended that respondents have entertained the request of candidates in whose cases incorrect measurements were taken in respect of height and re-conducted PMT in respect of height only and the last date was fixed as 28/29-03-2019. He further contended that this Court in W.P.No.5859 of 2019, dated 14-06-2018 had rendered its judgment in *rem* in respect of chest expansion directing the candidates, whose chest expansion measurements have been recorded wrongly, to appear for PMT as a last chance on 28/29-03-2019. Even the said date is over, the petitioner never approached the respondents on 28/29-03-2019. Had the petitioner appeared on 28/29-03-2019, the respondents would have considered the case of the petitioner in terms of the judgment in W.P.No.5859 of 2019, dated 14-06-2018 and if the request of the petitioner is accepted at this point of time, then, it would lead to un-ending exercise, and the

respondents can never complete the recruitment process. Therefore, the Writ Petition is liable to be dismissed as there is no merit.

8. This Court, having considered the rival submissions made by both the parties, is of the considered view that the request of the petitioner cannot be entertained at this point of time as the last date for conducting PMT was over by 28/29-03-2019 and if the request of the petitioner is entertained, the cases of many unqualified candidates who have missed the selections by small margins are to be considered. The judgment relied upon by the petitioner is also of no help because in that case, the recruiting agencies had not corrected the hall ticket number and consequently, the respondent-candidate was denied admission into written examination, but here it is not the case. The petitioner was subjected to PMT on 11-02-2019 and was disqualified. But petitioner submitted the representations to the effect that the chest expansion measurement was recorded as '4.7' cms instead of "6" cms, which would mean that the respondents have not rejected the case of the petitioner by recording the chest expansion measurement as '0' and if the petitioner was erroneously disqualified, nothing prevented the petitioner from approaching this Court immediately. Moreover, this Court has rendered Judgment even before the petitioner had submitted the representation on 18-03-2019 to the effect that all the candidates, who are not satisfied with the recording of chest expansion measurement, should be given one more opportunity on 28/29-03-2019. That opportunity of re-conducting

PMT was also not availed by the petitioner and it is only after entire process of PMT, the petitioner has approached this Court. Further, this Court earlier had dismissed W.P.No.6987 of 2019, dated 02-04-2019 on the ground that PMT is already over and petitioners therein cannot be permitted to seek re-examination of their physical measurements after the cut off date.

9. With the above observations, the Writ Petition is dismissed. No costs.

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

JUSTICE ABHINAND KUMAR SHAVILI

Date: 04-04-2019
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