

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 25362 of 2016(O&M)
DATE OF DECISION : 12.07.2019

Kuldeep

... Petitioner

versus

Union of India & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Anil Kumar Sharma, Advocate,
for the petitioner.

Mr. Shivoy Dhir, Advocate
for respondents-UOI.

ARUN MONGA, J. (ORAL)

1. Short controversy in the case in hand is, whether the petitioner has been accorded the benefit of Clause 2(d) of the guidelines issued vide office memorandum dated 20.05.2015(Annexure P-10) for recruitment medical examination in Central Armed Police Forces and Assam Rifles issued by Ministry of Home Affairs, Government of India. Before proceeding further, it would be appropriate to reproduce the same as below:-

“2. GENERAL INSTRUCTIONS FOR RECRUITMENT BOARD

(a) to (c) XXX

(d) Measurement of physical standards viz. Height, weight and chest is the responsibility of the Physical Standard Test Board (PST Board) for all categories of candidates i.e. Gos,

SOs and Ors. Medical officers will not be part of PST board both for Male and Female candidates. Since presence of a female is required at the time of recording of physical standard (PST), a female non medical staff may be associated with PST board. Recruiting medical officer need not record to physical measurements. Recruiting medical officer will mention physical standard in the medical examination form as recorded by the PST board. In borderline cases of overweight, BMI should also be considered to arrive at conclusion and variation of 5Kg +/- from the minimum/ maximum limit may be accepted. Similarly while measuring height fraction of cm less than 0.5 will be ignored and 0.5 cm and more will be rounded off to the next higher cm standard height-weight charge is attached at Annexure-1.”

2. Factual matrix, leading to filing of writ petition is that pursuant to advertisement dated 28.03.2015(Annexure P-1), the petitioner applied for the post of Sub Inspector in Central Industrial Security Forces. The petitioner having successfully qualified in the written examination followed by physical efficiency test was subjected to medical examination on 09.09.2015. In the initial round of medical examination, he was declared unfit on account of suffering from “knock knee”. However, on a review medical examination conducted on 26.10.2015, it was found that the petitioner infact is not suffering from any such “knock knee” as was found earlier. Accordingly, the petitioner was issued an offer of appointment vide letter dated 15.09.2016(Annexure P-7) and was directed to report for training at academy in Hyderabad.
3. When the petitioner reported at the academy, he was once again subjected to physical examination where he was informed that his height being 169 cms, which is less than the prescribed 170 cms, as stipulated in

Clause 10 of the advertisement and he, therefore, cannot be allowed to

undergo training. Subsequently, the petitioner vide impugned order/ letter dated 04.11.2016(Annexure P-9) was informed that his case is being taken up with Staff Selection Commission and as soon as further directions are received, he would be informed. Hence, the writ petition assailing the rejection of the candidature of the petitioner after having been once declared selected on successfully qualifying the physical as well as medical examination, including height measurement during process of his selection in accordance with prescribed procedure.

4. In the written statement filed on behalf of the respondents, the rejection of the candidature of the petitioner has been justified on the ground that earlier he was inadvertently declared as qualified. It is further stated that any decision with regard to his candidature is still pending and, therefore, writ petition is premature. It is stated in the written statement that during documents verification of the petitioner, the Officers observed that in the initial dossier of the petitioner, his height was mentioned as 168 cms. Since as per Recruitment Rules a general category male candidate has to be possess minimum of 170 cms, therefore, the case of the petitioner was referred to recruitment agency i.e. Staff Selection Commission once again and a decision from the recruiting agency is still awaited.

5. In the aforesaid premise, this Court, in order to narrow down the dispute, vide order dated 21.04.2018 requested the Director of Post Graduate Institute of Medical Education and Research, Chandigarh to arrange a Medical Board for examination of the petitioner's height, in view of the conflicting height measurement, contended by the respondents.

6. Pursuant thereto, a report was received from Post Graduate Institute of Medical Education and Research, Chandigarh, whereby the

petitioner's height has been measured as 169.5 cms. The report of the Post Graduate Institute of Medical Education and Research, Chandigarh is not in dispute as neither any objection has been filed by the respondent nor otherwise during course of arguments, same has been controverted.

7. Now arises the question, whether the petitioner is entitled to be appointed on the post on the basis of his height as 169.5 cms. The answer to the same is in affirmative. As is borne out from clause 2(d) of the guidelines, *ibid*, issued by the Ministry of Home Affairs, Government of India, whereby in case height of a candidate is short by 0.5 cm then the figure can be rounded off to next higher level by giving relaxation upto 0.5 cm. Applying the said guidelines, the petitioner is undoubtedly to be treated as 170 cms and is, therefore, eligible as per Clause 10 of the advertisement.

8. In view of my discussion above and reasons contained therein, the respondents are directed to allow the petitioner to join the training at National Industrial Security Academy, Hakimpet, Hyderabad, in accordance with law and accord him all the benefits on parity with other successful candidates who were selected and appointed pursuant to advertisement dated 28.03.2015(Annexure P-1) according to the seniority of the petitioner.

9. Writ petition is allowed.

(ARUN MONGA)
JUDGE

July 12, 2019

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| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |