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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 283/2018**

AMIT KUMAR

..... Petitioner
Through: Mr. P. Sureshan, Advocate

versus

CHAIRMAN RAILWAY BOARD AND ORS.

..... Respondents
Through: Ms. Manita Verma, Advocate

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
27.08.2019

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1. The challenge in the present petition is to an order dated 2nd August, 2017 passed by the Railway Protection Security Force ('RPSF') holding that the Petitioner is not fit/suitable to become a member of a disciplined force and thus disposing of his application.

2. The facts in brief are that the Petitioner was provisionally selected for the post of Constable in RPSF and was issued a call letter for training with effect from 17th November, 2014 in the Haryana Police Training Centre Bondsri Gurgaon (Haryana). The case of the Respondent is that on 16th February, 2015 the Petitioner was spared for a midterm break. However, he did not resume training after availing himself of the break.

3. The Petitioner's candidature was reconsidered for training in the next

batch at the RPSF Training Centre in Gorakhpur with effect from 15th July, 2015. However, the Principal of the Training Centre at Gorakhpur stated that the Petitioner had absconded from the said training centre on 13th October, 2015.

4. It was decided by the administration to conduct initial training of 'leftover candidates'. With this end in view, a letter dated 16th December, 2015 was issued to the Petitioner directing him to report to the RPSF Training Centre Mokamaghat, Bihar where training had already commenced on 1st December, 2015. It was made clear that the Petitioner should report to the aforementioned training centre immediately. It was informed that basic training would be subject to his being medically fit, and, importantly, that failure to report on the due date will result in his candidature being terminated.

5. On 29th December, 2015, a letter was written by the Principal of the Training Centre at Mokamaghat, Bihar, noting that while undergoing training at Gurgaon, the Petitioner had sustained a fracture injury on the leg and his back, which is what persuaded the Respondents to offer him one more chance at resuming his initial training with effect from 1st December, 2015. In the said letter dated 29th December, 2015 the Principal of the Training Centre requested a Chief Medical Superintendent of the Divisional Railway Hospital, Danapur to arrange to provide the necessary medical fitness certificate to the Petitioner under Category B-I so that he could be taken for his initial training.

6. The documents placed on record by the Respondent show that the Petitioner, in the company of one constable B.K. Singh, sent to Danapur on 30th December, 2015. Initially he was under treatment as an outdoor patient. On 8th January, 2016 he was admitted as an indoor patient in the surgical ward.

7. What happened thereafter is a matter of contestation. The case of the Respondents is that the Petitioner left the hospital against medical advice (LAMA) without any notice to any authority. This was stated by the Principal of the RPF Zonal Training Centre Mokamghat in his letter dated 11th April, 2017 to the Director, RPF Security (ABE). It is in the above circumstances that the impugned order dated 2nd August, 2017 came to be passed by the IG, RPSF concluding that the Petitioner was perhaps not interested in serving in the RPSF. It was concluded that the Petitioner was not fit or suitable as of that day to become a member thereof.

8. Learned counsel for the Petitioner sought to justify the conduct of the Petitioner by stating that there was a genuine reason as to why he could not initially join the training, and that he admittedly suffered serious injuries while undergoing first phase of training. According to him, while receiving treatment in the hospital at Danapur, he was given no information about how long the treatment would continue. The case of the Petitioner in the rejoinder is that since no medical treatment was given to him and he was kept completely idle, it was not possible for him to continue there and accordingly 'he left for his hometown'. The Petitioner states that 'no briefing was done by any of the senior officers' while the Petitioner was

admitted at the Danapur Hospital. According to him, the Respondents also did not direct him to remain at the hospital.

9. The case of the Petitioner is that after obtaining a fitness certificate dated 20th April, 2016 from a local hospital at his home town, he wrote to the Respondents on 22nd April, 2016 seeking permission to join training. He alleges that no action was taken on that representation. It is further contended that the impugned order which holds that the Petitioner is unsuitable to be a member of the RPSF could not have been passed without holding a full-fledged enquiry, and therefore on that ground also it was not sustainable in law.

10. Having heard learned counsel for the parties it appears to the Court that the Petitioner has no valid explanation for abandoning his medical treatment at Danapur and going away to his home town without intimating anyone. The admitted position is that between 13th January 2016, when the Petitioner left the Danapur Hospital against medical advice and 22nd April, 2016 when he sent a request for recommencement of training by enclosing a medical fitness certificate, the Petitioner did not think it necessary that he should inform the Respondents about his whereabouts. To expect the Respondents to be indulgent and allow the Petitioner to commence training thereafter on a date of his own choosing is to undermine the necessity for a member of a disciplined armed force to abide by certain basic requirements of informing the superiors about his whereabouts. The Petitioner was sent to Danapur hospital specifically for his treatment. There is no question of the Petitioner abandoning the treatment against medical advice. It will also be recalled that

this was the third chance given by the Respondents to the Petitioner to complete his training. He cannot possibly claim to be unaware of the consequences of abandoning his medical treatment which was to facilitate the completion of his training.

11. It was submitted that the Petitioner was a lay person who perhaps did not understand the consequences of leaving the hospital midway through his treatment and returning home. The Court is not able to accept this submission from a person who is expected to be part of a disciplined force.

12. Consequently, the Court finds no reasons whatsoever to interfere with the impugned order dated 2nd August, 2017 passed by the Respondent. The writ petition is dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 27, 2019

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