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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6451/2018**

RAKESH DUDI

..... Petitioner

Through: Ms. Saahila Lamba, Advocate

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Rajan Sabharwal, Advocate with
Mr. Bhavya and Ms. Dipti Jain,
Advocates

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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11.12.2019

1. The Petitioner is before the Court praying for a direction to appoint him to the post of Constable in Railway Protection Force ('RPF')/Railway Protection Special Force ('RPSF'). The alternative prayer is for grant of a job to the Petitioner in the Indian Railways.

2. The background facts are that the Petitioner was initially selected on 23rd February, 2011 as Constable in the RPF, pursuant to an Employment Notice No. 1/2011. At the time of his selection, the Petitioner was found to be medically fit in the "Bee-one category without glasses" and a certificate to that effect was also issued. Subsequently, his candidature was cancelled, when it was found that his thumb impression on the application form did not match with the thumb impression on the Answer Sheet/OMR.

3. Aggrieved by the cancellation of his candidature, the Petitioner filed W.P.(C) No.6794/2016 along with other similarly situated writ petitions which was disposed of by this Court by the judgment dated 12th December, 2017. The Court while directing that letters of appointment should be issued in favour of the Petitioners, including the present one, the Court clarified that they should satisfy ‘the other eligibility criteria’.

4. Pursuant to the above judgment, the Petitioner was again called for a medical examination. He was declared unfit as a result of defective vision. It is in those circumstances that the Petitioner has filed the present Petition seeking the above reliefs.

5. Further to the notice issued in the petition on 1st June, 2018, a counter affidavit has been filed on behalf of the Respondents. It is stated therein that the Petitioner was sent for medical examination on 26th March, 2018 and that he was declared unfit in the medical Category “Bee-one due to distant vision acuity below standard for Bee-one medical category”. It is further submitted that since “the Petitioner was a candidate of Employment Notice No. 1/2011 and was undergoing the recruitment process as such being unfit in medical examination, question does not arise for alternative job for the Petitioner”. The Respondents referred to Rule 51 of the RPF Rules which reads as under:-

“51.1 No candidate who is not certified by the Divisional Medical Officer to be in good mental and bodily health of prescribed standard and free from any physical deformity or defect likely to interfere with the efficient performance of his duties in the Railway Protection Force shall be called in for training or appointed to the Force.

51.2 Candidates who use spectacles or have knock-knee or flat-foot shall not be eligible for appointment to the Force.”

6. Learned counsel for the Petitioner submitted that since in the first round of Petitioner was found to be medically fit and his candidature was wrongly cancelled, he should not be made to suffer by such act of the Respondent. It is contended that even if he is found medically unfit for the post of Constable, he could be accommodated on some other post.

7. The Petitioner’s candidature was restored by this Court by its judgment dated 12th December, 2017, with the express caveat that he should satisfy all other eligibility criteria. The criteria of medical fitness cannot be diluted or compromised. It is entirely possible that the while Petitioner may have been found medically fit in the initial medical examination, by the time of his being examined again in March, 2018, there may have been an unanticipated deterioration in his vision. At the same time, it is not possible for the Court to overlook the rule that governs the issue and grant relief to the Petitioner, overlooking his medical unfitness.

8. Consequently, the Court is unable to accede to the prayers made in the writ petition. The writ petition is accordingly dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

DECEMBER 11, 2019/tr