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WP(MD)No.14288 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.12.2020

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THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

W.P. (MD) No.14288 of 2020

and

W.M.P. (MD) No.11940 of 2020

M.Manickaraj

... Petitioner

Vs

1. The Deputy Inspector General (Recruitment),
Directorate General CRPF.,
East Block 03, Level 4,
Sector - 01 R.K.Puram,
New Delhi 110 006.

2. The Commandant,
Regional Recruitment Centre,
Group Centre CRPF,
Avadi, Chennai.

3. The Deputy Inspector General
Recruitment Training Centre,
45th Bn ITBP,
Idayapatty Village,
Madurai, Tamilnadu.

4. The Dean,
Velammal Medical College Hospital and
Research Institute,
Tuticorin Ring Road,
Anuppanadi,
Madurai, Tamilnadu.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings issued by the 3rd respondent dated 19.09.2020 vide Annexure L1, Form No.4, of Constable (GD) in CAPFS Exam-2018 and quash the same as illegal and consequently direct the respondents 1 to 3 to appoint the petitioner in the post of Constable (GD) in CAPFS for the year 2018, within the time stipulated by this Court.

For Petitioner : Mr.A.R.Kannappan

For Respondents : Mrs.L.Victoria Gowri

Additional Solicitor General



ORDER

Challenging the impugned proceedings issued by the 3rd respondent vide Annexure L1, Form No.4 of Constable (GD) in CAPFS Exam-2018, dated 19.09.2020 and for a direction to the respondents 1 to 3 to appoint the petitioner in the post of Constable (GD) in CAPFS for the year 2018, the present writ petition has been filed.

2.The learned counsel appearing for the petitioner would submit that the Staff Selection Commission issued a notification on 21.07.2018, calling for applications for the posts of Constables (GD) in Central Armed Police Force (CAPFS), N.I.A. and S.S.F. and Rifleman (GD) in Assam Rifles (AR). The online application was opened on 21.07.2018 and the registration was closed on 20.08.2018. The petitioner applied for the said post through online, under the OBC category and the same was registered vide Roll No.8204002634 and his registration identification number is I.D.No.71000111466 and Hall Ticket was also sent to the petitioner for written examination.

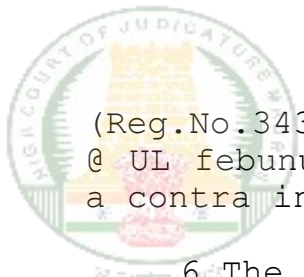
3.The learned counsel would further submit that the petitioner successfully completed the written test and therefore, he was called for physical efficiency test (PET) on 20.08.2019, which was conducted at the 3rd respondent centre. The petitioner was also qualified in the physical efficiency test and thereafter, he was called for medical examination on 20.01.2020.

4.The learned counsel would further submit that the petitioner participated in the medical examination, which was conducted by the 3rd respondent, however, he was rejected that he was 'unfit'. The reason stated in the medical certificate issued by the Doctor, one Dr.S.Srivenkatesh, M.B.B.S., M.S., General and Laproscopic Surgeon, Senior Civil Surgeon, Kovilpatti, (Reg.No.58736) is as follows:-

"i) Undescended testis

ii) Medium sized Nodules in Left Lung."

5.As against the aforesaid rejection, the petitioner has preferred an appeal before the 3rd respondent to review the medical examination report, after obtaining the medical certificate from the Medical Practitioner (Special Medical Officer), Government District Hospital. Further, the petitioner examined himself by a General and Laparoscopic Surgeon, Dr.S.Srivenkatesh, M.B.B.S., M.S., Senior Civil Surgeon, Government Hospital, Kovilpatti and as per the advise of the Doctor, the petitioner underwent a surgery for the left undescended testis (Orchidopexy) on 29.01.2020 and the said Doctor, who performed the surgery, has given a certificate that the petitioner is now fit to do all duties. Thereafter, the petitioner approached the 3rd respondent Medical Board on 16.09.2020 and the Medical Board of the 3rd respondent sent the petitioner to the 4th respondent hospital for further medical examination on 17.09.2020. After examination, one Dr.C.Ramesh, M.D., (Chest) DTCD.,



(Reg.No.34380), has issued a certificate stating that old treated pr @ UL febunus - healed lesson Lalficable and further stated that not a contra indication for CRPF Constable Recruitment.

6.The learned counsel would further submit that all those reports have been produced before the 3rd respondent Medical Board by the petitioner, but without considering the same, the Medical Board declared the petitioner as 'unfit', which, according to the petitioner, is arbitrary. Hence, the petitioner is before this Court with the relief sought for in the prayer.

7.Mrs.L.Victoria Gowri, learned Assistant Solicitor General, would submit that initially the medical examination was held on 20.01.2020 and at that time, the respondents found the following defects upon the petitioner.

- "i) Undescended testis
- ii) Medium sized Nodules in Left Lung."

8.In support of her contention, the learned Assistant Solicitor General, has relied upon the Clause 6 (28) of the guidelines of Recruitment - Medical Examination in Central Armed Police Forces and Assam Rifles for the general grounds of rejection, wherein, it had been stated as follows:-

"28) Undescended testis, atrophic testis, marked varicocele, testicular swellings;"

9.The learned Assistant Solicitor General would further submit that based on the aforesaid ground for rejection, the petitioner was declared as 'unfit'. She would further submit that subsequent to the medical examination, the petitioner underwent an appropriate surgery. But, at the

time of conducting medical examination, he had a problem, as stated above and therefore, he was declared as 'unfit' for the said post as he has to work not only in the Tamilnadu but also in the several States around the Country, including North East, where there will be large amount of snowfall. Therefore, the learned Assistant Solicitor General prays this Court that the writ petition ought to be dismissed.

10.Heard the learned counsel on either side and perused the materials available on record.

11.It is an admitted fact that the petitioner went for medical examination on 20.01.2020 and during the course of medical examination, the 3rd respondent found the following defects upon the petitioner, for which, he was declared as 'unfit'.

- "i) Undescended testis
- ii) Medium sized Nodules in Left Lung."



12. Further, in Clause 6 (28) of the general ground for rejection for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, it had been stated as follows:-

"28) Undescended testis, atrophic testis, marked varicocele, testicular swellings;"

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13. At the time of medical examination, the 3rd respondent found the defects as stated above on the petitioner and declared the petitioner as 'unfit', as per the said Clause.

14. It is clear that subsequent to the rejection of the petitioner as 'unfit', due to the aforesaid infirmities on 20.01.2020, he underwent a surgery and only after obtaining necessary Doctor certificates, he approached the 3rd respondent as well as this Court, by way of filing the present writ petition, by producing the said certificates, that the petitioner is fit for employment.

15. When the medical examination was conducted to the petitioner, he suffered with the infirmities, as per Clause 6 (28), the general grounds for rejection. The said infirmities was cured subsequent to the medical examination.

16. The point for consideration is whether the respondents can reconsider the request of the petitioner subsequent to the curing of infirmities, when the same was identified at the time of medical examination of the petitioner. The answer to this point is 'NO' for the following reasons:-

a) At the time of conducting the medical examination, if the petitioner has any problem, then the respondents can proceed with the matter based on the guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, which deals with the grounds for rejection. In the present case, the respondents found infirmities with the petitioner and rejected his candidature as 'unfit'.

b) When the same was identified by the respondents at the time of medical examination, the subsequent curing of infirmities by the petitioner will not affect the earlier decision of rejection of the petitioner by the respondents.

17. In view of the foregoing observations and discussions, I am unable to trace any illegality in the process of decision making of the 3rd respondent, while passing the impugned order, dated 19.09.2020. Thus, the writ petition lacks merit.

18. Therefore, this Court is of the view that the respondents have rightly applied their mind and declared the petitioner as 'unfit'.



19. In view of the above, I propose to dismiss the writ petition and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.E)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Deputy Inspector General (Recruitment),
Directorate General CRPF.,
East Block 03, Level 4,
Sector - 01 R.K.Puram,
New Delhi 110 006.
2. The Commandant,
Regional Recruitment Centre,
Group Centre CRPF, Avadi, Chennai.
3. The Deputy Inspector General
Recruitment Training Centre,
45th Bn ITBP,
Idayapatty Village,
Madurai, Tamilnadu.
4. The Dean,
Velammal Medical College Hospital and
Research Institute,
Tuticorin Ring Road,
Anuppanadi, Madurai, Tamilnadu.

+1cc to Mr.A.R.Kannappan, Advocate, SR.No.27075.

W.P. (MD) No.14288 of 2020
10.12.2020

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