

02.07.2021
Sl. No.16
srm

W.P.A. No. 10948 of 2021

Sudip Mahato
Vs.
Union of India & Ors.

Mr. Debasish Kundu

...for the Petitioner.

Mrs. Smtia Das De

...for the Union of India.

The petitioner is aggrieved by an order dated June 2, 2021 issued on behalf of the Inspector General, STC BSF Churachandpur (Manipur). By the said order, the petitioner was asked to return home after he had joined in the post of a Constable (GD), BSF. In the order of appointment it was mentioned that the medical documents which were used at the time of appointment were valid for a period of one year. After the validity period was over, the candidate would be medically examined and would be allowed to join the posting if found fit.

In terms of the aforementioned clause in the appointment letter, the petitioner appeared before a Review Medical Board along with 39 other candidates. The petitioner was found to be medically unfit. Thus, the petitioner along with 9 similarly situated candidates were asked to return home.

Mr. Kundu submits that there have been cases where medically unfit persons were allowed to remove the reason for unfitness and join duties upon extension of time. He prays for similar relief.

Mrs. Das De, learned Advocate appearing on behalf of the Union of India, submits further opportunity to the petitioner cannot be given as on the second occasion also the petitioner was found medically unfit.

At this stage, in my opinion, no mandatory order can be passed. However, the petitioner has made a representation before the Assistant Commandant/Min(Estt), HQrs. South Bengal Frontier, Border Security Force, Action Area IIE, New Town, Rajarhat, Kokata-700156, ventilating his grievances and praying for an opportunity to remove the cause of his unfitness.

Let the representation dated June 13, 2021 be considered by the authority, in accordance with law upon hearing the petitioner. A reasoned order should be passed and communicated to the petitioner. The entire exercise should be completed within a period of three weeks from the date of communication of this order. The authority shall take into consideration whether similarly situated persons had been given opportunities to remove their cause of illness or medical unfitness and join the service.

This Court is not going into the merits of the claims and counterclaims of the parties and all points are kept open.

Since no affidavit-in-opposition has been called for the allegations made in this writ petition are deemed to have been denied.

The writ petition is, thus, disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)