

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 9503 of 2019**

Laxmi Nag D/o Phool Singh Aged About 20 Years R/o Village And Post Kukanar, Tahsil Chhindgarh, District Sukma Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Inspector General Of Police Central Reserve Police Force, Govind Apartment, Jeeva Vihar Colony, Telibandha, Raipur District Raipur Chhattisgarh
3. Commandant Group Centre, Central Reserve Police Force, Raipur District Raipur Chhattisgarh
4. Commandant Group Centre, 241 Basteria Battalion, Central Reserve Police Force, Shedwa, Bastar, District Bastar Chhattisgarh

----Respondents

For Petitioner	:	Mr. Govind Ram Miri, Sr. Advocate with Mr. Basant Kaiwartya, Advocate
For State	:	Mr. Amit Buxy, Panel Lawyer
For Respondents No. 2 to 4	:	Mr. Ashwini Shukla, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

05/10/2021

1. Aggrieved by the impugned order Annexure P/1 dated 04.10.2019 the present writ petition has been filed. Vide the impugned order the respondents have refused to grant joining to the petitioner.
2. The brief facts of the case relevant for the adjudication of the present writ petition is that the petitioner who is a resident of village Kukanar, Post Kukanar, Tehsil Chhindgarh, District Sukma. The said place is one of the remotest and core naxalite area in the State of

Chhattisgarh. The respondents-the Department of Central Reserve Police Force initiated a recruitment process for the post of Constable (General Duty) Female. The petitioner having participated in the recruitment process qualified the written examination and was provisionally selected for appointment as Constable (GD) and was ordered to be posted in 241 Basteria Battalion in Central Reserve Police Force.

3. The recruitment process which was meant for Bastar region and in which the petitioner had participated, an appointment order was issued vide Annexure P/2 dated 20.02.2019. The petitioner was asked to report for duty on or before the forenoon of 22.03.2019. The contention of the petitioner herein is that before receiving the order of appointment, the petitioner met with an unfortunate road accident on 05.02.2019 and received grievous injuries. The nature of injuries caused to the petitioner are as under :

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4. Because of the multiple fractures and serious injuries that the petitioner sustained, she had to be hospitalized and for better treatment she was hospitalized at Shree Balali Institute of Medical Science Private Limited at Raipur for the period between 15.02.2019 to 26.02.2019. Thereafter, she was again in continuous treatment from the said hospital. Because of the multiple fractures, she was confined to the house alone for the intervening period. The petitioner finally appeared before the respondent authorities and gave her joining on 22.03.2019 as would be evident from Annexure P/1, wherein it has been categorically accepted by the respondents that the petitioner

reported for duty and gave her joining on 22.03.2019. That because she was still recovering from the multiple fracture injuries that she had sustained in the accident that she met on 05.02.2019, the authorities found her to be unfit this time and they ordered the petitioner to produce a fresh order of fitness, which would enable her to give joining.

5. From the report and the materials available with the pleadings in the writ petition, it appears that the respondents had issue a letter to the petitioner on 28.03.2019 asking her to produce her fitness certificate, which would enable the respondents to give her joining. Since the petitioner was not fully fit at that point of time, she waited for a few more days and thereafter she went to the hospital from where she was undergoing treatment and the hospital authorities finally vide order dated 29.08.2019 gave her a fitness certificate. With the aid of which the petitioner went for reporting for duties before the respondents, which was not accepted by the respondents vide the impugned order Annexure P/1 dated 04.10.2019. It is this order which is under challenge in the present writ petition.
6. Counsel for the petitioner submits that the respondent authorities ought to have considered the claim of the petitioner sympathetically, particularly taking note of the fact that firstly the petitioner had met with a road accident and sustained multiple fractures and serious injuries. Secondly the petitioner was a resident of one of the remotest corner of the State and which is badly affected from the naxalite menace and under the circumstances it would have otherwise also taken some time for the petitioner to have got a medical fitness from the hospital where she had undertaking treatment i.e. at Raipur. The further contention of

the petitioner is that it is not a case where the petitioner in fact has been deliberately avoiding joining for any extraneous reasons, but for her physical disability that arose on account of the unfortunate accident. This fact also should have been taken note of by the respondent authorities before passing the impugned order of cancellation of appointment.

7. The counsel for the respondents on the other hand opposing the petition drew the attention of this Court to the correspondence made by the respondents to the petitioner on 28.03.2019 asking the petitioner to produce a proper fitness certificate enabling her to give joining and the respondents submit that to this letter dated 28.03.2019 the petitioner responded only after about 6 months time. Therefore, in terms of the guidelines and circulars issued by the respondents dated 09.08.1995 those candidates who give their joining after 6 months from the date of issuance of order of appointment cannot be permitted to resume duties and thereby the impugned order has been passed. The same therefore cannot be said to be in any manner arbitrary or bad in law.
8. Having heard the contentions put forth on either side and on perusal of record, admittedly the petitioner had participated in the recruitment process for appointment to the post of Constable (GD). She was found meritorious and order of appointment was issued in her favour on 20.02.2019. She was asked to report for duty till 22.03.2019. However, before issuance of the appointment order itself the petitioner met with an unfortunate accident resulting in multiple fractures and serious injuries. The petitioner was also hospitalized for some time during the initial period of treatment and thereafter she was undergoing treatment

from Shree Balali Institute of Medical Science Private Limited at Raipur. Thereafter, the petitioner is said to have reported for duty in terms of the order of appointment on the 22.03.2019 itself. However, by that time she had not fully recovered from injuries that she had sustained. For this the respondent authorities ordered for producing a fresh medical fitness certificate vide their correspondence dated 28.03.2019.

9. The fact which needs appreciation in the instant case is the factual ground realities relates to the area to which the petitioner belongs, the atmosphere and the surrounding of that area. There is no dispute in respect of the said area being an area which is badly affected from naxalite menace. There is also no dispute to the fact that it is difficult for somebody from that part of the State to easily come to Raipur for getting the fitness certificate. Moreover, during the said period also the petitioner was undergoing treatment in respect of the injuries that she had sustained in the accident on 05.02.2019.
10. All said and done the petitioner in fact had given a joining on 22.03.2019 as it evident from the impugned order Annexure P/1 itself. There is also an admitted factual position that the petitioner was issued with a letter by the respondents to produce a fresh medical fitness certificate on 28.03.2019. The petitioner had produced a certificate on 29.08.2019. Since the petitioner has given a joining on 22.03.2019 in terms of the order of appointment. Under the circumstances, the circular dated 09.08.1995, whereby a candidate who has been issued with an order of appointment does not report for duties for 6 months, would amount to an automatic cancellation of the appointment would not be applicable in the case of the petitioner, as

the respondents themselves has accepted the fact that the petitioner had reported for duties on 22.03.2019. It is also not in dispute that before issuance of the order of appointment the respondents had subjected the petitioner to medical fitness, which further forces this Court to reach to the conclusion that except for the unfortunate accident that took place on 05.02.2019, the petitioner was fit for reporting for duties and her joining on 22.03.2019 would have otherwise been accepted. Only because the petitioner suffered injuries in an accident, should not be taken into consideration as a disqualification for the petitioner for all times to come, particularly when it is very difficult for somebody to get an employment. It is not a case where the petitioner has deliberately been absent from duties without any cogent or justifiable reasons and grounds. The respondents themselves are accepting the fact that the petitioner during the intervening period was undertaking certain medical treatment as a result of an accident.

11. Given the said facts, this Court is of the opinion that the respondents should reconsider the impugned order Annexure P/1 dated 04.10.2019. The impugned order to that extent therefore is set-aside and quashed and the matter is remitted back to the respondent authorities to reconsider the claim of the petitioner by sympathetically considering the reasons and grounds raised by the petitioner, which prevented her from giving her joining earlier than 29.08.2019, In the event if the respondent authorities finds that the petitioner can be considered for appointment considering the fact that this Court on 21.11.2019 has ordered and directed the respondents to keep one post vacant, the respondent authorities may consider accommodating

the petitioner against the said vacant post, which has been ordered to be kept vacant. Let this entire exercise be completed within a period of 90 days from the date of receipt of the copy of this order.

12. With the aforesaid observations, the present writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved