

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.NO.1007 OF 2020

1. The Union of India
rep. by its Secretary to the Government
Department of Home Affairs
New Delhi.
 2. The Director General
Central Industrial Security Force
CGO Complex, New Delhi.
 3. The Inspector General
Central Industrial Security Force
NS Head Quarters, Mahipalpur
New Delhi.
 4. The Deputy Inspector General (Personnel)
Central Industrial Security Force
CGO Complex, New Delhi.
 5. The Deputy Inspector General
CISF, Ministry of Home Affairs
D Block, Rajaji Bhavan
Besant Nagar
Chennai 600 090.
 6. The Deputy Inspector General
Central Industrial Security Force
RTC, Arakkonam.
 7. The Deputy Commandant/Adm
Central Industrial Security Force
Training Sector, Hyderabad.
- ... Appellants

Vs.

L/Ct.N.Reka

...

Respondent

Prayer:

Appeal filed under Clause 15 of the Letters Patent against the order dated 06.02.2020 made in W.P.No.19344 of 2011.

W.P.No.19344 of 2011:-

To issue a Writ of Certiorarified Mandamus to call for the records relating order passed by the 7th respondent in his letter No.E-32017/CISF/RTC(A)/Adm/SI(LDCE)/II/2549 dated 09.07.2011 and quash the same and to direct the respondents to conduct the medical examination for the post of SI/Exe in the LDCE-2010 and issue appointment order to the petitioner.

For Appellants :: Mr.K.Srinivasa Murthy

For Respondent :: Mr.R.Thiyagarajan

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The appeal is directed against a rather curious order of February 06, 2020 by which the respondent's writ petition has been allowed.

2. The facts are not much in dispute. The respondent applied for being inducted to the post of Sub-Inspector in the CISF. The respondent was required to undergo a medical test. The respondent failed in the medical test, as she was found to be unfit. Even the reasons for the respondent being unfit were indicated in the relevant report. The respondent was overweight and suffered from a congenital aortic valve problem, which was described to be a congenital bicuspid aortic valve mild aortic stenosis. The report was endorsed by three medical personnel and the original report carried the signature of all the three.

3. Following the medical tests, the respondent's name was included in the list of candidates, but shown to be unfit. The relevant list was published on March 17, 2011.

4. The respondent, thereafter, sought a review of the medical examination. However, since the applicable rules did not conceive of a further medical examination or re-examination, the request was declined.

5. W.P.No.19344 of 2011 was filed by the respondent seeking an order of direction for a second medical examination to be conducted on the respondent and to issue an appointment order to the respondent.

6. When the rules for the particular induction process did not permit a re-examination and the rules were not questioned by the writ petitioner, it is difficult to imagine how the writ petition could have been allowed unless the writ petitioner demonstrated that the medical opinion rendered on her was malafide or baseless or completely erroneous.

7. In the context of the challenge carried by the writ petitioner to this Court, the following paragraph, by which the writ petition was allowed, appears to be somewhat out of place:

"5. I am also of the considered view that when a person who appear through LDCE to the post of Sub Inspector is forced to undergo the stringent standards applicable to the direct recruitment, where as the very same person gets promotion in due course by reaching seniority would be appointed without recourse to medical examination. There is no justification for refusing a person through LDCE on medical grounds, when he or she is eligible to be appointed by promotion. There is no rationale having reasonable nexus to the object to be achieved. The standard of qualification in medical fitness applicable to direct recruitment will not apply to promotions. Appointment through LDCE will be a fast track method and it will not change the recruitment process made through promotion. Therefore, I am of the considered opinion that the rejection of the request of the petitioner is not tenable. Therefore, a direction is issued to the respondents to conduct Review medical examination to the petitioner and if she is found to be in shape I without insisting the medical fitness applicable to the direct recruits, the petitioner should be considered for promotion to the post of Sub Inspector through Limited Department Competitive Examination (LDCE) and if she is found fit she will be entitled to all the benefits on notional basis. The respondents are directed to complete the process within a period of eight weeks from the date of receipt of a copy of this order."

8. It is difficult to comprehend how the case of a person taking a limited departmental competitive examination can be compared to promotion. In a disciplined force, where the skills required include physical skills, it is not unreasonable or irrational to provide for a medical examination. After all, it is an examination that has to be passed by a candidate to get an

otherwise out of turn appointment, since it is not a promotional route which had been taken by the respondent herein. In most cases where promotions are permitted from a feeder post and persons are also entitled to jump by taking a limited competitive examination, the rules of the game are completely different and cannot be compared. The person seeking a jump promotion or taking part in a limited competitive examination has to clear a tougher hurdle than a promotee, who may be considered purely on the basis of the ACR.

9. In particular, when the rules of procedure required a medical test to be undertaken by any candidate seeking direct appointment through the limited competitive examination, as to how promotees would be assessed would be of no consideration, particularly since the rules for the process had not been challenged.

10. In matters pertaining to any disciplined force where rules are in place for recruitment, promotion or jump promotion, the Court should be slow in interfering with any decision which is taken in accordance with the rules, unless the rules are set aside or the decision is found to be contrary to the rules. It is not unreasonable for a disciplined force as CISF to prohibit a person having the medical condition as the respondent in this case does, from occupying the post for which she applied. The respondent clearly failed and has no grievance in such regard except requiring a re-examination when the rules did not provide for any re-examination.

11. Plainly, the respondent came with an utterly unmeritorious grievance that could not have been redressed with the limited authority of judicial review available in proceedings under Article 226 of the Constitution. The judgment and order impugned dated February 06, 2020 are set aside. W.A.No.1007 of 2020 is allowed. W.P.No.19344 of 2011 is dismissed. There will be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kpl

To

1. The Secretary to the Government,
Union of India,
Department of Home Affairs, New Delhi.

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6. The Deputy Inspector General
Central Industrial Security Force
RTC, Arakkonam.
7. The Deputy Commandant/Adm
Central Industrial Security Force
Training Sector, Hyderabad.

+1cc to Mr.K.Srinivasa Murthy, Advocate, S.R.No.16885
+1cc to Mr.R.Thiyagarajan, Advocate, S.R.No.17557

W.A.No.1007 of 2020

AJS (CO)
CS/31/03/2021

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