

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8946 OF 2021

Shubham s/o Ashok Nagare,
age: 24 years, Occ: Nil,
R/o Makranpur, Tal. Kannad,
District Aurangabad.

Petitioner

Versus

01 The Union of India
through the Secretary,
Home Affairs Department,
New Delhi.

02 The Inspector General/pers
Central Industrial Security Force
of India, Block No.13-CGO
Complex, Lodhi Road,
New Road – 110 003.

03 The Commandant,
CISF Unit, ONGC,
Mumbai No. 12, New Police
Quarters, Mahim,
Mumbai City.

04 The Senior Commandant,
Recruit Training Centre,
(RTC) Bhilai, Post: Utai,
District Durg,
State: Chattisgarh.

Respondents

Mr. Kishor D. Khade, advocate for the Petitioner.

Mr. A. G. Talhar, Assistant Solicitor General of India for the Respondents.

**CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.**

Reserved on : 14 June, 2022.

Pronounced on: 23 June, 2022.

JUDGMENT (Per Sandipkumar C. More, J.):

Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The petitioner is seeking quashing and setting aside of the communication dated 10.02.2020, issued by Respondent No.4 i.e. the Senior Commandant, Recruit Training Centre (RTC), Bhilai, thereby informing the petitioner that his request for granting certain period to join the post of Constable in CISF has been refused and in consequence, cancelling his appointment letter. The petitioner is also seeking a direction to Respondent No.4 to admit him to the training according to the communication dated 10.01.2020.

3 According to the petitioner, as per the advertisement dated 24.01.2015, issued by Respondent No.1, he applied for the

post of Constable (GD), as mentioned in the said advertisement. Accordingly, he got selected for the said post. Consequently, Respondent No.3 i.e. the Commandant, CISF Unit, ONGC, Mumbai, issued a letter of appointment dated 23.03.2017 to the petitioner. However, due to registration of serious crime against the petitioner, he was not allowed to join the training. The petitioner thereafter filed Criminal Application No. 1882 of 2018 before this Court for quashing the First Information Report registered against him with Kannad Police Station for the offences mentioned therein. The Division Bench of this Court (**Coram: T. V. Nalawade & Mangesh S. Patil, JJ.**), vide order dated 11.03.2019, quashed the aforesaid First Information Report against the petitioner. Accordingly, the Standing Screening Committee of the Respondents then considered the case of the petitioner and directed him to join the services on 14.09.2020. However, the petitioner, due to his personal reasons, could not attend the said training and therefore, vide letter dated 10.01.2020, Respondent No.4 again asked the petitioner to join the services on or before 23.01.2020 by considering his application dated 27.11.2019. However, due to his personal reasons, the petitioner again sought time for joining the said post by making various applications. Ultimately, as the petitioner could not join the services within the extended period granted by Respondent No.4, his further request for extension of time to join

the services was rejected vide communication dated 10.02.2020 and his appointment was also cancelled. Hence this petition.

4 On the contrary, the learned Assistant Solicitor General, appearing for Respondents, has strongly opposed the petition by filing affidavit-in-reply dated 23.02.2021, on the ground that despite being offered so many extensions for joining the training, the petitioner ultimately failed to join the said post. As such, Respondents have prayed for dismissal of the petition.

5 We have carefully gone through the entire record and also considered the rival submissions in the light of documents produced on record by the respective parties.

6 On perusal of the record, it is clearly evident that the petitioner was appointed by Respondents on the post of Constable (GD) in CISF vide letter dated 23.03.2017 as per the advertisement dated 24.01.2015. Further, it is not in dispute that as per the order dated 11.03.2019 in Criminal Application No. 1882 of 2018, passed by this Court, the First Information Report No. I-221/2015, registered with Kannad Police Station, against the petitioner for the offence under Sections 307 of the Indian Penal Code along with other Sections has been quashed. It is also evident that after quashing of the First Information Report and on

considering the request of the petitioner, the Respondents had allowed the petitioner to join the said post on or before 23.01.2020 vide communication dated 10.01.2020. However, there are letters dated 17.09.2019, 19.09.2019, 27.11.2019 and 25.01.2020 on record, which were issued by the petitioner informing that he was willing to join the said post but due to serious ailment of his father, he needed extension of time to join the post. These letters have been produced by the Respondents on record along with their letters dated 30.09.2019, 13.10.2019, 10/11.10.2019, 27.12.2019 and 18.01.2020, granting extension of time to the petitioner to join the services. On perusal of all these letters, it is clearly evident that though the petitioner was granted sufficient opportunity to join the post of Constable (GD) in CISF by the respondents on consideration of serious health issue of his father, the petitioner ultimately failed to join the services within the extended period granted by the respondents, as per his request.

7 It is significant to note that the petitioner, in his letter dated 17.09.2019, had in fact, intimated to the Respondents that due to serious ailment of his father, he was not able to join the CISF service. In the said letter, the petitioner has even requested the Respondents to grant him permission to leave CISF, RTC, Bhilai and also assured that he would not claim any relief in future if his aforesaid request is granted. Despite such letter, it appears

that the Respondents have considered subsequent applications of the petitioner requesting to grant him extension of time to join the said post. Significantly, in the letter dated 25.01.2020, for extension of time for joining the services till June 2020, the reason given by the petitioner was that he cleared another examination for some other post and he has to prepare for interview for the said post, which was scheduled in June 2020.

8 In the backdrop of these facts, the Respondents have ultimately refused to grant extension of time to the petitioner to join the post vide letter dated 10.02.2020 and also cancelled his appointment.

9 Having gone through the entire correspondence, as mentioned above, we are of the opinion that the Respondents have granted sufficient opportunity to the petitioner by considering his requests sympathetically but the petitioner, on one or the other pretext, refused to join the services. It is clearly evident that the petitioner has not, at all, interested in joining the said post as Constable (GD) in CISF and, therefore, the approach of the Respondents, in refusing further extension of time to the petitioner to join the said post and cancelling his appointment, appears justifiable. Though the petitioner has claimed in his rejoinder to the affidavit in reply filed by the Respondents that he

was not given sufficient opportunity by the Respondents to join the services, but, from his own conduct, as reflected from the aforesaid correspondence, it is highly difficult to infer that he was unable to join the services due to genuine reason.

10 The petitioner, in support of his claim, has relied on the following judgments:

- (i) In the case of **Rishabh Vs. Union of India & others**, (CWP No. 8913 of 2019, decided on 14.08.2020, Punjab & Haryana High Court)
- (ii) In the case of **Noor Fatima V s. Union of India & another**, MANU/DE/2092/2018.

11 We have carefully gone through the aforesaid judgments. However, the first judgment is in respect relaxation of upper age limit of the petitioner therein, which definitely differs from the facts of the instant case and, therefore, the said judgment is not helpful to the petitioner in any manner. So far as second judgment is concerned, the conduct of the petitioner therein speaks about her genuine difficulty in joining the post for which she was selected. Moreover, it has been made clear in the said judgment by the Hon'ble Apex Court that the permission granted to the petitioner therein for joining the post was granted only in the peculiar facts and circumstances of that case only and it should

not be treated as precedent in any other matter.

12 In the instant case, conduct of the petitioner speaks for itself and we have already observed that despite being offered sufficient opportunity to the petitioner for joining the said post, the petitioner avoided to join the services. The entire approach of the petitioner, in the instant case, cannot be justified for giving him any further opportunity to join the services, as claimed by him. We, therefore, do not find any merit in the petition.

13 In the result, we pass the following order:

- (i) Writ Petition is hereby dismissed.
- (ii) Rule stands discharged with no order as to costs.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.

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