

104 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-29613-2018 (O&M)
Date of Decision: 22.09.2022

Amit Kumar

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Harish Bhardwaj, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari for quashing the impugned order dated 19.05.2016 (Annexure P-18) and order dated 17.02.2017 (Annexure P-21), whereby the respondents have declined the claim of the petitioner for his recruitment on compassionate ground on any post; on the ground of his unfitness; though the petitioner is demanding employment on some suitable post as per order dated 09.05.2013 passed by this Court; along with certain other prayers.

The facts, as involved in the present petition, are that the father of the petitioner was serving as a Constable in 20 Battalion CRPF, Deefu, District Karbiaglong, Assam. He died in harness on 26.06.1997. The respondents have framed a policy for compassionate appointment of the dependants of the deceased personnel in CRPF. But since the petitioner was minor at the time when his father had expired, therefore, he could not apply

for the same. However, the respondents granted one last chance to the petitioner to apply for appointment on compassionate ground and therefore, he was advised to report in the office of the nearest Group Centre, CRPF, Pinjore, along with his documents, on 15.12.2011. Accordingly, the petitioner had appeared for recruitment as Constable. The petitioner was medically examined. But he was found medically unfit. Thereafter, the petitioner was referred to the Review Medical Board. However, even the Review Medical Board found the petitioner to be medically unfit. Hence, the petitioner was informed that he could not be recruited in CRPF on the post of Constable. Thereafter, the petitioner filed CWP No.10011 of 2013 praying that the respondents be directed to medically re-examine the petitioner and that they be directed to appoint the petitioner on the post of Constable or on any other post. The said writ petition was dismissed as withdrawn, vide order dated 09.05.2013. However, while dismissing the writ petition, the petitioner was granted liberty to apply for some other suitable post with the respondents-CRPF. Accordingly, the petitioner made a representation for reconsideration of his case on any post other than the post of Constable. The said representation has also been rejected by the respondents on the ground that there cannot be any recruitment in the respondents-CRPF except through medical fitness test. Since, the petitioner had already been declared medically unfit for the force, therefore, he could not be appointed in the force. However, while rejecting the case of the petitioner, it was intimated by the respondents that if any other eligible dependant of the deceased employee intended to get appointment on

compassionate ground, then his case could be submitted to the respondents. It is challenging the said order, that the present petition has been filed by the petitioner.

Arguing the case, learned counsel for the petitioner has submitted that the respondents have wrongly declared the petitioner to be medically unfit. Moreover, the petitioner had not insisted upon the post of Constable for his appointment on compassionate ground. The respondents could have appointed the petitioner on any other post, like on the post of Peon, Daftari or any other Class IV post. Hence, the action of the respondents deserves to be set aside.

Having heard the learned counsel for the petitioner and having perused the case file, this Court does not find any substance in the arguments raised by the learned counsel for the petitioner. Undisputedly, the father of the petitioner had expired on 26.06.1997. Despite that, the respondents had granted an opportunity to the petitioner to seek appointment in the year 2011. It is a different matter that the petitioner was found medically unfit as per the standards of the respondents-CRPF, therefore, he could not be appointed as such. Hence, this Court does not find any per se infirmity in the course of action adopted by the respondents.

Although, learned counsel for the petitioner has stressed upon the argument that the petitioner could have been appointed on Class IV post instead of the post of Constable, however, even that point is clarified by the respondents in the impugned order, wherein it has been clearly mentioned that no recruitment on any post is permissible in the respondents-CRPF

without fulfilling the requisite medical standards and without undergoing the medical examinations. Hence, on this count as well, this Court cannot find any fault in the action of the respondents. Since, the petitioner is not medically fit as per the standards required by the respondents-CRPF, therefore, he could not be recruited in any post in the respondents-CRPF; as such.

Moreover, a perusal of the impugned order shows that the respondents have not rejected the claim of the family of the deceased employee as such. Rather, the petitioner was intimated that any other eligible dependant of the deceased employee could have applied for the compassionate appointment. However, any other dependant of the deceased employee have not chosen to avail the said opportunity. Moreover, the very fact that the respondents have considered the case of the petitioner after about 14 years of the death of his father rules out any bias against the petitioner on the part of the respondents. Therefore, the respondents are not at fault in any manner in the entire matter.

In view of the above, finding no merit in the present petition, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

22.09.2022
adhikari

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No