



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: July 21, 2022

Pronounced on: August 25, 2022

+ **W.P.(C) 2425/2021 & CM APPL.7064/2021 & 28324/2021**

RANJEET KUMAR

..... Petitioner

Through: Mr. Siddharth Mittal, Ms. Shilpa
G. Mittal, Mr. Prabhat Kumar &
Mr. Kshitiz Chauhan, Advocates

Versus

UNION OF INDIA & ORS.

.... Respondents

Through: Ms. Leena Tuteja, Advocate

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT

SURESH KUMAR KAIT, J

1. The present petition has been preferred by the petitioner seeking quashing of orders dated 24.07.2020 and 16.12.2020; vide which he has been terminated from service.

2. The case of the petitioner is that pursuant to respondents inviting applications, he applied for the post of Constable in Central Armed Police Force (CAPF) and after being successful in the written examination; he appeared for medical examination before the Medical Board at FTR, HQR, SSB, Patna, wherein he was found unfit on the

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ground of “Hydrosol Rt Testis”. However, the petitioner was re-examined by the Appellate Medical Board and was found fit for service and was accordingly selected in the recruitment process and provisionally appointed to the post of Constable/GD vide letter No.E-32023/ES/Appoint letter/ Joint Recruit/ Constable-2011/ 2017-5963 dated 30.05.2014.

3. Further averred by the petitioner that he received a Show Cause Notice dated 03.12.2016 alleging that he had suppressed the fact of having ‘Defective Colour Vision’ when he appeared for medical examination in Jaipur and got Shape-1 certificate. In his reply to the aforesaid Show Cause Notice, petitioner stated that according his medical examination of the year 2015-16, he was in Shape-I category; that the report of Annual Medical Examination of the year 2015 was never supplied to him; and only by virtue of this Notice, he has been informed that he is suffering from ‘Defective Colour Vision’. Thereafter, respondents vide order dated 24.10.2016 cancelled the confirmation of his probation period. In furtherance to Show Cause Notice dated 03.12.2016, respondents vide order dated 02.02.2017 imposed penalty of deducting 03 days’ salary and he was sent for medical examination on 29.09.2018, wherein the Medical Board placed him in Shape-2 category for a period of two years. Thereafter, petitioner appeared before the Eye Board (RME) IG, Medical, Composite Hospital, CRPF, Jharoda Kala and he was put under Shape-5 category.

4. Respondents thereafter issued another Show Cause Notice dated 09.03.2020 asking petitioner as to why his services be not terminated



under Rule 25 sub rule (2) and Rule 26 sub rule (4) of the CISF Rules, 2001 for not furnishing correct information. Petitioner was also informed that his service condition is hit by Circular dated 27.02.2013 issued by Ministry of Home Affairs vide F.No.1-45024/1/2008-Pers.II, which stipulates *that any person suffering from defective colour vision or colour blindness will not be recruited*. In reply to the aforesaid Show Cause Notice, the petitioner vide reply dated 25.04.2020 stated he has never violated any CISF Rules and the above said Circular dated 27.02.2013 issued by the Ministry of Home Affairs is not applicable to him, as he was recruited prior to coming of the aforesaid Rule in force. However, the respondents vide order dated 24.07.2020 terminated services of petitioner in terms of provision of Sub Rule (2) of Rule 25 of the Central Industrial Security Force Rule, 2001.

5. Being aggrieved by his termination, petitioner filed an appeal before the competent authority, which was disposed of by respondent No.3 vide order dated 16.12.2020 by treating it as a representation. The afore-noted orders dated 24.07.2020 and 16.12.2020 are challenged in the present petition.

6. During the course of hearing, learned counsel appearing on behalf of petitioner submitted that by virtue of Circular No. I-45024/2/2013-Pers-II dated 28.05.2013, Ministry of Home Affairs has issued the guidelines for recruitment of CAPF which stipulated that the services of person recruited after 27.02.2013 and suffering from defective colour vision or colour blindness would be terminated. However, these guidelines would come into effect in prospective manner and since the



petitioner was recruited in the year 2011; and the respondents first arbitrarily increased his probation period and thereafter, cancelled the confirmation of the probation period of petitioner and clandestinely removed him from service. Therefore, the impugned orders deserve to be quashed. Learned counsel placed reliance upon decision of this Court in **Abhilash Kumar Vs. Union of India** 2018 SCC OnLine Del 11923 to submit that the recruitments made prior to aforesaid circular dated 28.05.2013 would remain valid and such person shall be shifted/ posted to such a position where the public safety is not involved. It was urged that the respondents have terminated the petitioner from service by treating the date of appointment as the date of recruitment, whereas the term 'recruitment' and 'appointment' are not similar. In support of above submission, reliance was placed upon decision in **Basant Lal Malhotra Vs. State of Punjab and Ors.** AIR 1969 PH 178.

7. Learned counsel for petitioner next submitted that the departmental appeal preferred by the petitioner under the provisions of CISF Rule, 2001 against his termination has been treated as representation and arbitrarily decided by respondent No.3, without even affording an opportunity of hearing. It was also submitted that petitioner never suffered from any medical condition or disease and he was given offer for appointment by respondent No.3 after he was declared medically fit by the Medical Board after thorough examination. Learned counsel submitted that the medical standards prescribed in the recruitment brochure requires the candidate to possess high colour vision, which was duly tested during the medical examination and petitioner was



found fit. It is claimed that in the year 2015-16, petitioner was in Shape-I category and respondent No.3 has failed to appreciate that the medical reports and annual confidential report suggest incongruity in the reports of the doctor. Also, that respondent No.3 has committed an error in treating the petitioner to be under probation, though he has been working for the last more than 6 years, especially when his probation period was never formally extended and even as per recruitment rules the period cannot be extended more than twice the original probation period.

8. In support of above submissions, reliance was placed upon decision of this Court in ***Sudesh Kumar Vs. Union of India & Anr.*** 2011 SCC OnLine Del 1449 wherein after considering the long service, this Court had directed the respondent therein to not invalidate petitioner therein on account of colour blindness. Reliance was also placed upon decision of Hon'ble Supreme Court in ***Dharamvir Singh Vs. Union of India & Ors.*** (2013) 7 SCC 316; ***Veerpal Singh Vs. Secretary, Ministry of Defence*** (2013) 8 SCC 83 and ***Union of India & Ors. Vs. Manjeet Singh*** (2015) 12 SCC 275 in support of petitioner's case to submit that there exists a presumption in favour of the military personnel as disability attributable to service, if at the time of acceptance of service, the person was found medically fit.

9. The learned counsel appearing on behalf of respondents on the other hand submitted that the petitioner was issued provisional offer of Appointment for CISF Group Commandant, CISF Group HQRS Patna (Bihar) letter No. E- 32023/EZ/Appointment letter /joint recruitment/ Constable- 2011/14/5963 dated 30.05.2014 for the post of Constable/GD



wherein at SI.No.02 (iv & v) it was clearly mentioned that the appointing authority may discharge him from service at any time during the period of probation. The petitioner unconditionally accepted his term of selection and after completion of his basic training, he was transferred to CISF 8th Batallion Jaipur (Raj) on 14.06.2015, wherein in the year 2015 during his medical examination, the medical officer declared the petitioner as (SHAPE-2S1H1A1P1E2 T-12) for “DEFECTIVE COLOUR VISION”.

10. According to respondents, the petitioner suppressed the fact that he was already placed under Low Medical Category i.e. “Defective Colour Vision” in Annual Medical Examination (AME) -2015, however, at the time of his examination in the year 2016 before the Medical officer, Community Health Centre, Amer, Jaipur, Rajasthan, managed SHAPE-I certificate. Accordingly, on the basis of Shape-I certificate, the probation period of petitioner was considered to have been completed and he was confirmed in the rank of Const./GD w.e.f. 12.07.2016.

11. The respondents have averred that the Community Health Centre Amer, Jaipur (Rajasthan) was unaware with the AME Certificate of the petitioner as SHAPE-2 category i.e. S1H1A1P1E2 for “DEFECTIVE COLOUR VISION” for the year 2015, so the AME report issued as SHAPE-I by the Community Health Centre Amer, Jaipur (Rajasthan) was cancelled by the Medical Authority of Primary Health Center, Jaipur vide their letter No. 2016-17/613 dated 07.10.2016. Accordingly, vide letter dated 24.10.2016, petitioner’s completion of probation and confirmation was cancelled. Vide Show Cause Notice dated 03.12.2016,



petitioner was called upon to submit his reply, which was considered and found to be unsatisfactory and thereby rejected vide order dated 02.02.2017 with the punishment to “pay fine equivalent to 03 days pay”.

12. Learned counsel for respondents next submitted that thereafter the Standing Medical Board conducted petitioner’s medical examination on 29.09.2018 at CISF Hospital, Mahipalpur wherein he has been categorized as Low Medical Category i.e. S1H1A1P1E2 for a period of two years. Thereafter, petitioner’s case was again taken up by the Director, Medical Board, CISF HQs New Delhi and his medical examination was held on 06.02.2020 at Eye Board IG, Medical Composite Hospital, CRPF, Jharoda Kalan, New Delhi and he was declared as SHAPE-V.

13. The petitioner was accordingly issued a Show Cause Notice dated 09.03.2020 by the competent authority to show cause as to why his services be not terminated/ dismissed and stated that if the petitioner wishes to make any written representation against the Show Cause Notice, he may do so. It is averred that petitioner submitted his reply dated 23.06.2020, which was found unsatisfactory and respondent vide order dated 24.07.2020, terminated his services. Against the order of termination, petitioner preferred an appeal dated 31.08.2020, which was considered and rejected by the competent authority vide order dated 16.12.2020. Learned counsel appearing on behalf of respondent empathically submitted that there is no merit in the present petition and it deserves to be dismissed.

14. In rebuttal, learned counsel for petitioner submitted that
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respondents No.3 & 4 in purported exercise of power under sub rule (2) of Rule 25 of CISF Rule, 2001 has arbitrarily issued orders dated 16.12.2020 and 24.07.2020 and dismissed the petitioner from service by wrongly relying upon the Circular issued by Ministry of Home Affairs vide F No.1-45024/1/2008-Pers.II dated 27.02.2013.

15. Upon hearing learned counsel for the parties and on perusal of material placed before this Court, we find that petitioner was provisionally appointed to the post of Constable in CAPF on 30.05.2014 and after undergoing basic training at KRTC, Mundli, he was transferred to CISF 8th Reserve Battalion, Jaipur, Rajasthan. Vide order bearing No. S.E.-30013/12/CISF/8th Battalion/Dasta/Par./2016-11348 24.10.2016, petitioner's probation was cancelled holding as under:-

“

OFFICE OF HEAD COMMANDANT
Central Industrial Security Force
(Ministry of Home Affairs)
CISF 8th Reserved Battalion
Post-Amer, Jaipur Rajasthan

S.E.-30013/12/CISF/ 8th Battalion/Dasta/Par./2016-11348

Date:

24/10/2016

ORDER

Subject: Cancellation of completed probation period.

It has been ordered that medical certificate of Shape-I category issued by the Doctor of General Hospital, Amer, Jaipur, Rajasthan to CISF No. 140501317 Constable/GD/ Ranjeet Kumar posted in this Battalion that Senior Medical Officer Community Health Centre, Amer, Jaipur, has been cancelled by the Head Medical Officer, Community Health Centre, Amer, Jaipur vide letter No. ORG./2016-17/613 dated 07.10.2016.



02. Therefore, on the basis of Sr. No. 8 of Battalian service order part-I Sr. 48/2016 dated 17.08.2016 certifying completion of probation period to CISF No. 140501317 Constable GD Ranjeet Kumar is cancelled due to abovementioned medical certificate of Shape-I category of the year 2016.

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16. Thereafter, on 03.12.2016, petitioner was served with Show Cause Notice, relevant portion of which reads as under:-

“

OFFICE OF HEAD COMMANDANT
Central Industrial Security Force
(Ministry of Home Affairs)

CISF 8th Reserved Battalion
Post-Amer, Jaipur Rajasthan

B-15014/CISF/8th BattalionjA.B.(J)/Part/N-37/ Ranjeet
2016 -12491

Date: 03/12/2016

SHOW CAUSE NOTICE

Disciplinary action against CISF No. 140501317 Constable /GD Ranjeet Kumar, 8th Battalion Reserved Force Jaipur (Rajasthan) has been proposed. The detail of proposed charges for the action is mentioned herein.

CHARGE

CISF No. 140501317 Constable/GD Ranjeet Kumar was declared Shape-2 [SIHIA1P1E2 (T-12) for defective colour vision by the Medical Officers in the annual medical examination conducted in the year 2015. Defence Personnel has got himself medical examined and got a Shape-I certificate in the annual medical examination 2016 without disclosing the report of year 2015. Due to the above said act of the defence personnel he is liable for



negligence, indiscipline and willful disobedience of the order passed by the Senior Officers. Therefore, the charge.

02. By this CISF No. 140501317 Constable/GD Ranjeet Kumar is granted 10 days time to present his defence by written mode.

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17. The respondents in Final Order bearing No. B-15014/ CISF/8th Battalion/ A.B.(J)/Part/N-37/Ranjeet/2017-922 dated 02.02.2017 refuted the claims made by the petitioner in his reply and held as under:-

“03. Therefore I the undersigned, after perusing the show cause notice and the defence presented by the defence personnel vide written application dated 27.12.2016, finds that the defence personnel was declared Shape-2 (SIH1A1P1E2 (T-12) for defective colour vision while he was posted in 8th Battalion Jaipur by the CISF Hospital arid since the test of colour vision is done in front of Doctor and the defence personnel therefore, both the persons are aware of the test result. Defence personnel has on its own Shape-1 certificate by getting himself tested in the year 2016 without disclosing the result of “SIH1A1P1E2 (T12) for defective colour vision” of the year 2015 to the relevant doctor in the year 2016 and further presented that certificate to the department. Therefore the defence personnel is found guilty for the letter No. (1249) dated: 03.12.2016. Defence personnel is liable for the appropriate punishment for the above act but on seeing the service and the future of the accused defence personnel, I the undersigned after adopting humble attitude exercise power under Rule 32 sub-rule 1 and Rule 34 of Part-X of CISF Rule-2001 ordered that CISF No. 140501317 Constable/ GD Ranjeet Kumar should be penalized by deducting the salary of 3 days.”



18. Pertinently, the basis for issuance of aforesaid termination order dated 24.10.2016; show cause notice dated 03.12.2016 and final order dated 02.02.2017 is the AME -2015 report dated 01.07.2015 (Annexure R-2), wherein petitioner has been declared Shape-II S1H1A1P1E2 for Defective Colour Vision. Also, the Review Medical Board on 29.09.2018 has opined as under:-

“In view of the above specialist opinion, investigation, medical examination and instruction issued vide directorate medical/CISF message No.M-20015 (SMB-2)/CISF/Med. Dir/Saket/2016-810 dated 16.08.2016, the board recommends him to place in LMC S1H1A1P1E2 (P) wef 29.09.2018 for two years.”

19. Thereafter, pursuant to respondent's letter dated 24.12.2019, petitioner appeared before the Eye Board (RMED) IG, Medical, Composite Hospital, CRPF, Jhaorda Kalan on 06.02.2020, who opined as under:-

*“A case of Defective colour vision
O/E Defective Colour Vision CP –IV (Four)”*

20. The respondents thereafter vide Show Cause Notice dated 09.03.2020 called upon the petitioner to make a representation within 30 days as to why in terms of Circular baring No. I- 45024/ 1/2013-Pers-I, dated 28.05.2013 issued by Ministry of Home Affairs, his services may not be terminated.

21. Against the aforesaid Show Cause Notice, the petitioner is claiming to have filed an appeal dated 23.06.2020, which according to



him was wrongly treated as a Representation. A perusal thereof reveals that it holds the subject as “*Submissions of representation against the show cause notice*” and was in reply to Show Cause Notice dated 09.03.2020. According to respondents, the petitioner had preferred an appeal under CISF Rules, 2001 which could not have been treated as a representation. So, the contention of petitioner that it was not treated as an appeal, cannot be accepted. The said representation of petitioner was found unsatisfactory by the respondents and same was rejected and petitioner was terminated from service by Termination Order bearing No. E-42099/CISF/DMRC(D)/ Dasta /2020-13669 dated 24.07.2020.

22. Relevantly, respondents have heavily relied upon Circular baring No. I- 45024/ 1/2013-Pers-I, dated 28.05.2013 issued by Ministry of Home Affairs for termination of petitioner. The aforesaid circular reads as under:-

“

Government of India
Ministry of Home Affairs
Per-II Desk

Subject: New Policy Guidelines on recruitment/ retention in respect of Central Armed Police Forces (CAPFs) and Assam rifles (ARs) personnel having defective colour vision including colour blindness - regarding

Reference BSFs UO No.29/40 (WO)/2013-stt/10399 dated 18.04.2013 on the above mentioned subject seeking clarification whether the personnel recruited between the date 18.05.2012 to 27.02.2013 and at later stage detected to be suffering from colour blindness are also be boarded out or will be retained in service.



2. The matter has been considered in this Ministry, it is clarified that, personnel recruited earlier to 27.02.2013 would not be boarded out. **But any person recruited thereafter (i.e after 27.2.2013) if found colour blind even after recruitment, shall promptly be boarded out of service.**

Sd/
(R.P Sati)

Under Secretary to the Govt. of India
Tel-23092343

DG, BSF : (Shri Dharmendra Pareek, DIG (Estt))

MHA UO No.I-45024/1/2013-Pers-II dated 28th May
2013”

23. Petitioner has pleaded that the aforesaid Circular dated 28.05.2013 issued by the Ministry of Home Affairs is not applicable to his case, as the said circular came into force in 2013 whereas he was recruited in the year 2011. On the other hand, respondents have pleaded that the said circular stipulates that those who have been recruited in CISF after 27.02.2013, if found colour blind, even after recruitment, shall be boarded out of service.

24. Petitioner has placed reliance upon decision of this Court in *Abhilash Kumar (Supra)* to submit that the recruitments made prior to aforesaid circular dated 28.05.2013 would remain valid and such person shall be shifted/ posted to such a position where the public safety is not involved. In the said decision, a Division Bench of this Court in a writ preferred by 16 petitioners, who pursuant to an advertisement in 2015 and after going through selection process in the year 2016, were offered the appointment in the year 2017, had assailed their termination, had observed upon the Circular dated 28.05.2013 issued by the Ministry of

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Home Affairs as under:-

“12. The aforesaid Guidelines leave no manner of doubt that any person who has a defective vision or is colour blind, is ineligible for recruitment in the CAPF or Assam Rifles. In fact, if any person is wrongly recruited despite having the aforesaid defects, he is to be promptly removed from service as soon as the defect is noticed and appropriate disciplinary action for major penalty is required to be initiated against the Doctor who had declared him ‘fit’.

13. The aforesaid Guidelines are not under challenge before us and therefore, on this ground alone, the challenge of the petitioners is liable to fail as it has neither been urged before us that the petitioners are not suffering from Colour Blindness, nor it has been contended that the aforesaid Guidelines are inapplicable to them.

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15. Per contra, the facts of the present case clearly show that the petitioners were recruited after a condition had been introduced in the Policy Guidelines dated 27.02.2013 specifically prohibiting the recruitment of persons suffering from Colour Blindness or defective vision. Even otherwise, we are of the view that once the respondents have specifically prescribed a set of medical standards for recruitment, it is not open to the Court to tinker with the said standards or to hold that the action of the respondents in terminating the services of the petitioners, who admittedly did not meet the criteria prescribed in the Guidelines, is in any manner illegal.”

25. In **Abhilash Kumar (Supra)**, the petitioners were appointed after coming into force the Circular dated 28.05.2013 issued by the Ministry of Home Affairs and had not challenged the said circular. However, the Court had in unequivocal terms held that it is not open for the court to tinker with the medical standards for recruitment. Hence, reliance upon decision in **Abhilash Kumar (Supra)** is of no assistance to the case of



petitioner.

26. The petitioner has also relied upon decision in ***Basant Lal Malhotra (Supra)*** to submit that the respondent has terminated the petitioner therein from service by treating the date of appointment as the date of recruitment, whereas the term ‘recruitment’ and ‘appointment’ are not similar. In ***Basant Lal Malhotra (Supra)***, the Division Bench of Punjab and Haryana decided the writ petition preferred by a retired District and Sessions Judge for refixing his pension under Punjab Service Civil Rules, wherein the period of service rendered and date of recruitment were under consideration. The Division Bench gave dissenting views. Justice P.D.Sharma referred the matter to the larger Bench, whereas Justice P.C.Jain held as under:-

“11. After giving my thoughtful consideration to all the relevant provisions of the subject, I am led to an irresistible conclusion that the terms recruitment and ‘appointment’ are not synonymous and connote different meanings. The term ‘recruitment’ connotes and clearly signifies enlistment, acceptance, selection or approval for appointment and not actual appointment or posting in service while appointment means an actual act of posting a person to a particular office. In this view of the matter, the word recruited existing in rule 4.2 of the Punjab Civil Services Rules, Volume II, does not mean actual appointment and the petitioner should be deemed to have been recruited on the 26th of March, 1936.”

27. In ***Basant Lal Malhotra (Supra)***, the said case was related to Punjab Service Civil Rules, whereas the present case relates to Circular dated 28.05.2013 issued by the Ministry of Home Affairs relates to Central Armed Police Forces (CAPFs) and Assam rifles (ARs), where-



under, the petitioner was terminated from service during his probation period and his confirmation was recalled in view of his medical condition. The observations made in Para-11 of ***Basant Lal Malhotra (Supra)*** make it abundantly clear that recruitment is a condition precedent to appointment. In the present case, services of petitioner were terminated while he was under probation, which is a condition precedent to his appointment. Hence, this case is also of no help to the case of petitioner.

28. In ***Sudesh Kumar (Supra)***, the petitioner had joined the services in the year 2003 on the post of Constables and the learned Single Judge of this Court had elaboratively dealt the aspect of colour blindness. However, at the relevant time policy Circular dated 28.05.2013 issued by the Ministry of Home Affairs was not in force and so, this case is of no help to the case of petitioner.

29. The petitioner has also placed reliance upon decisions in ***Dharamvir Singh (Supra)***; ***Veerpal Singh (Supra)*** and ***Union of India (Supra)***.

30. In ***Dharamvir Singh (Supra)***, the petitioner, who was a Sepoy in Army in the year 2005 and was discharged from service on account of 20% disability, had sought pension. The Hon'ble Apex Court in the facts and circumstances of the said case had allowed the petition while observing that a member of armed forces is presumed to be of sound and mental condition upon entering in service if there is no entry or record to the contrary. However, has also observed that in the event of his discharge from service on medical grounds, the onus to proof is on the



employer.

31. In ***Veerpal Singh (Supra)***, the Hon'ble Supreme Court had dealt with a case where the appellant, who was enrolled in Army, was discharged from service and his claim for pension was turned down for the reason he was found suffering from 'schizophrenic reaction', which is not attributable to military service. The Supreme Court had after analyzing of his medical reports held that the courts are extremely loath in interfering with the opinion of the medical experts but the Tribunal ought to have referred the case to the Review Medical Board or reassessing the medical condition of petitioner therein and directed for same.

32. In ***Union of India (Supra)***, the Supreme Court had subscribed the views proclaimed in ***Dharambir Singh (Supra)*** and ***Rajbir Singh (Supra)***.

33. There is no dispute to the ratio of law laid down by the Supreme Court in the afore-noted cases. There is no dispute a personnel of armed forces is presumed to be of sound and mental condition at the time of his joining the service and if he is discharged from service on account of disability, the onus is upon the employer to prove it. In the present case, there are different medical reports on record refuting the claims of petitioner.

34. It is not the case of petitioner that he was not given the opportunity to prove his ability. On the other hand, petitioner was examined by the Review Medical Board on 29.09.2018, which noted that "*the board*"

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recommends him to place in LMC SIH1A1P1E2 (P) wef 29.09.2018. Even thereafter, the petitioner appeared before the Eye Board on 06.02.2020, which opined that it is “a case of Defective colour vision O/E Defective Colur Vision CP-IV”.

35. The petitioner was recruited to the post of Constable/GD vide appointment letter dated 30.05.2014. It is pertinent to mention here that as per the material on record, the petitioner was in Shape-2 category i.e. “defective colour vision” as per the Annual Medial Examination of the year 2015. Then he appeared before AME-2016 at Jaipur, Rajasthan and did not disclose Shape-2 of AME-2015. Consequently, got Shape-I category. Thereafter, his probation was confirmed on 17.08.2016. But after it came to the notice of respondents that the Shape-1 category was wrongly issued to the petitioner, vide order dated 07.10.2016, Shape-1 category was cancelled and consequently, vide letter dated 24.10.2016, petitioner’s completion of probation and confirmation was also cancelled. Thereafter, the Standing Medical Board conducted petitioner’s medical examination on 29.09.2018 at CISF Hospital, Mahipalpur, wherein he was categorized as Low Medical Category i.e. Shape-2 for a period of two years. The Director, Medical Board, CISF (HQs), New Delhi again took up the petitioner’s case and examined him on 06.02.2020 at Eye Board IG, Medical Composite Hospital, CRPF, Jharoda Kalan, New Delhi and declared him in Shape-5. Thus, he continued on probation.

36. There is no dispute to the position that by Circular dated 28.05.2013 issued by the Ministry of Home Affairs, it has been clarified



that the “*personnel recruited earlier to 27.02.2013, would not be boarded out. But any person recruited thereafter (i.e. after 27.2.2013) if found colour blind even after recruitment, shall promptly be boarded out of service*”. It is also not disputed that in the year 2011, petitioner had applied for recruitment on post of Constable; the petitioner was fully examined by Medical Officer on 22.07.2011; and provisionally appointed to the said post on 30.05.2014. That is to say, his appointment is pursuant to coming into force the Circular dated 28.05.2013 by the Ministry of Home Affairs and his appointment conditions shall be governed thereunder.

37. In view of the aforesaid factual position of this case, we find that the orders dated 16.12.2020 and 24.07.2020 do not call for any interference by this Court.

38. The present petition is accordingly dismissed. Pending applications are disposed of as infructuous.

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JUDGE

(SAURABH BANERJEE)
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