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W.P.No.29733 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.29733 of 2023
and W.M.P.No.29341 of 2023

R.Iyappan

...Petitioner

Vs

1. The Union of India,
Rep. by its Secretary,
Ministry of Personnel,
Public Grievance and Pensions Staff Selection Commission,
Block No.12, CGO Complex, Lodhi Road,
New Delhi.
2. The Director General,
CRPF(Recruitment Branch),
East Block No.7,
Level – 4, Sector -1,
R.K.Puram, New Delhi – 110 066.
3. The Presiding Officer,
DV/DME Board – 2, GC CRPF,
Ranga Reddy, Telangana.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent made in his report dated 03.08.2023 and quash the



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same and consequentially direct the respondents to select and appoint petitioner to the post of Constable (GD) in Central Armed Police Forces (CAPF), NIA, SSF and Rifle Man(GD) in Assam Rifle Club.

For Petitioner : Mr. P.Paramasiva Doss

For Respondents : Mr.K.Srinivasa Murthy
Senior Panel Counsel

ORDER

This writ petition is filed to quash the report of the third respondent dated 03.08.2023 and consequently direct the respondents to select and appoint the petitioner to the post of Constable (GD) in Central Armed Police Forces (CAPF), NIA, SSF and Rifle Man(GD) in Assam Rifle Club.

2. Having been successful in the written examination in the selection process conducted by the Staff Selection Committee to fill up the post of Constable (GD) in Central Armed Police Forces (CAPF), NIA, SSF and Rifle Man(GD) in Assam Rifle Club, the petitioner was subjected to Physical Standard Test and Physical Efficiency Test on



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02.05.2023. The petitioner had successfully completed both these endurance tests and had then appeared for the review medical examination on 28.07.2023 conducted by the assessment committee. Through the review medical examination report, it was opined that the petitioner is medically unfit owing to his medical condition of “Gynaecomastia”. Challenging the invalidation, the present writ petition has been filed.

3. The learned counsel for the petitioner drew attention of this Court to the procedure for assessing a candidate for symptoms of Gynaecomastia. According to him, no ultra sound examination was done during the medical examination and therefore, the final opinion itself cannot be sustained.

4. *Per contra*, Mr.K.Srinivasamurthy, learned counsel appearing for the respondents submitted that the petitioner was subjected to ultra sound examination and though the Radiologist has stated in his report about the absence of breast tissue, there are other circumstances, by which, the medical condition of Gynaecomastia can be ascertained and



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therefore, merely because the ultra sound examination did not confirm the presence of breast tissue on the petitioner, the condition of Gynaecomastia cannot be overruled.

5. The respondent has also produced copies of the medical report conducted on the petitioner. It is seen that the petitioner was subjected to an ultra sound procedure on 01.08.2023 and the findings therein are as follows:

“Findings:

Skin thickness is normal.

No evidence of focal mass lesions.

No evidence of subareolar/retroareolar mass appreciated in both breasts.

No evidence of breast tissue/parenchyma noted on both sides.

No evidence of axillary lymphadenopathy.

IMPRESSION:

**No significant sonographic abnormality noted.*

=>Advised follow up USG and clinical correlation.

-suggestion clinical correlation & follow up.”



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6. The aforesaid findings and impression were certified by a consultant Radiologist.

7. However in the review medical examination, a report has been given stating that the petitioner is unfit owing to this medical condition of Gynaecomastia, Grade -III.

8. Clause 11 of the recruitment notification imposed certain miscellaneous conditions for determining the Gynaecomastia, which reads as follows:

“2) Gynaecomastia: Will lead to rejection in the initial medical examination, if the diameter of the mass is more than 4 cm. During review medical examination, ultrasound examination is to be done to rule out whether it is due to fatty tissue or breast tissue. Candidates are to be rejected if found to have breast tissue.”

9. A bare reading of the aforesaid condition would indicate that when any candidate has symptoms of Gynaecomastia during the review medical examination, an ultra sound examination is a must, to rule out



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whether it is a fatty tissue or a breast tissue.

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10. Apart from this, there are no other procedure stipulated in the notification for ascertaining this medical condition. When the petitioner was subjected to review medical examination and the consultant Radiologist has also given a report stating that the mass on the petitioner's body is not a breast tissue and in the absence of any medical records or other materials to ascertain the presence of Gynaecomastia, I am unable to appreciate the stand taken by the learned counsel appearing for the respondents that there are other ways to determine this medical condition. It is a settled proposition that the procedure to be adopted in a recruitment process is to be strictly in accordance with the conditions stipulated in the notification and no other deviation or new procedure can be brought in for assessing a candidate.

11. Thus, the petitioner having successfully completed the preliminary process of recruitment viz., written examination, physical standard test, physical efficiency test i.e., height and chest measurements and now that this Court has also found that he does not have the medical



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condition of Gynaecomastia, he can be subjected to further selection process. Accordingly, the impugned report dated 03.08.2023 is quashed. Consequently there shall be a direction to the respondents to subject the petitioner to the further process of selection, if any. If there are no other stage of further evaluation, his name shall be included in the selection list forthwith and consequential orders of appointment shall be issued, at least within a period of four weeks from the date of receipt of a copy of this order.

With the above observations and directions, this writ petition stands allowed. No costs. Connected miscellaneous petition is closed.

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Index:Yes
Speaking order
Neutral Citation:Yes
mp



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M.S.RAMESH,J.

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