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

CWP-18924-2023

Date of Decision:08.12.2023

NEERAJ KUMAR

..... Petitioner

Versus

UNION OF INDIA AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Nikhil Vats, Advocate
for the petitioner.

Mr. Sunil Kumar Sharma, Senior Panel Counsel &
Mr. Lalit Attri, Central Govt. Counsel
for the respondents-UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Medical Examination Report dated 08.08.2023 (Annexure P-8).

2. The petitioner pursuant to advertisement applied for the post of Constable (General Duty). The petitioner was subjected to medical examination. The weight of the petitioner was measured 72 kg and height 170 cm. The petitioner applied for review medical examination. In the review medical examination, the weight was found 73.5 kg. The review medical examination took place on the same date still variation of 1.5 kg was found. Thereafter, within a week, the petitioner was physically examined by Haryana Staff Selection Commission and his height was found 173.2 cm and weight 64.3 kg. The variation in the weight and height measured by respondent vis-a-vis Haryana Staff Selection Commission was substantial.

3. Learned counsel for the petitioner submits that weight of a candidate may vary day to day, however, height cannot vary. One Government authority has measured height of the petitioner as 173.2 cm whereas respondent has measured as 170 cm. There seems some manipulation or mistake on the part of respondents.

4. By order dated 30.11.2023, Deputy Commandant, Command Hospital, Chandimandir was directed to constitute a Board of Doctors to measure height and weight of the petitioner.

5. Learned counsel for the respondents during the course of hearing produced report dated 04.12.2023 prepared by Deputy Commandant, Command Hospital, Western Command. The said report is taken on record.

6. From the perusal of report, it comes out that Board of Doctors constituted by Command Hospital, Chandimandir has measured height of the petitioner as 173 cm and weight as 58.9 kg.

7. The respondent while rejecting candidature of the petitioner measured his height 170 cm whereas Command Hospital on the direction of this Court has re-measured height of the petitioner as 173 cm. Nobody can claim change in height even though weight is subject to change. With respect to weight, it is interesting to note that on the same date the respondent itself assessed two different weights of the petitioner and State Government Authority assessed a totally different weight within a week. These facts collectively indicate that there was intentional or unintentional mistake on the part of respondent authorities. The petitioner cannot be punished for the mistake committed by respondent authorities.

8. Learned counsel for the respondent fairly concedes that there

was mistake by officials while preparing DME/RME of the petitioner.

9. In the wake of above discussion and findings, the present petition deserves to be allowed and accordingly allowed. The respondents are directed to re-consider candidature of the petitioner. The needful shall be done within 4 weeks from today.

(JAGMOHAN BANSAL)
JUDGE

08.12.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>