

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Arindam Mukherjee

WPA 25903 of 2024

**Harun Miah
Versus
Union of India & Ors.**

For the petitioner	:	Mr. Debasish Kundu
For the Union of India	:	Mr. R. C. Agarwal, Mr. Sunil Kumar Singhania, Mr. Tapan Bhanja
Heard & Judgment on	:	29th November, 2024

Arindam Mukherjee, J:

1. The petitioner applied for being considered in the recruitment process of 'Constable (General Duty) in Central Armed Police Forces (in short, CAPs), SSF and Rifleman (General Duty) in Assam Rifles pursuant to an employment notice for the recruitment examination for the year, 2024. The examination as appears from the employment notification is mainly a three tier selection process. The first stage is the Computer Based Examination or Test which in short is called either CBE or CBT. A candidate who qualifies the CBE/CBT is called for the Physical

Standard Test (in short, PST) followed by a Physical Efficiency Test (in short, PET). In the instant case, the petitioner qualified in the CBT/CBE and was called for the PST. In PST the height, weight and the chest measurement of the candidate is recorded. If the candidate satisfies the minimum requirement provided in the employment notice then the candidate is sent for PET. If a candidate qualifies in the PET then he is sent for medical examination called Detailed Medical Examination or DME. If the candidate is successful in DME then he is selected for being given an appointment if there is no other embargo in doing so. There is also a provision of Review Medical Examination (in short, RME) where a candidate can seek RME if he is declared unfit at the DME. In the instant case, the matter encircles around the second tier. The petitioner at the PST was found to be 169.4 cms. It is the case of the petitioner that in terms of the guidelines for Recruitment Medical Examination in CAPFs and Assam Rifle published in May, 2015 (hereinafter referred to as the said guidelines) a candidate whose height falls short of the minimum height provided in the employment notice shall be given a benefit of height if it is short by 0.5 cm from the minimum height stipulated for the PST. The petitioner has relied upon Rule 2(d) of the said guidelines in support of his contention. Rule 2(d) is set out hereunder for convenience and ready reference:-

"2(d) Measurement of physical standards viz. height, weight and chest is the responsibility of the Physical Standard Test Board (PST Board) for all categories of candidates, i.e., GOs, SOs and Ors. Medical officers will not be part of PST Board both for Male & Female candidates. Since presence of a female is required at the time of recording of Physical Standard Test (PST), a female non-medical staff may be associated with PST Board. Recruiting medical officer need not record to physical measurements. Recruiting medical officer will mention physical standard in the medical examination form as recorded by the PST Board. In borderline cases of overweight, BMI should also be considered to arrive at conclusion and variation of 5Kg +/- from the minimum/maximum limit may be accepted. Similarly, while measuring height fraction of cm less than 0.5 will be ignored and 0.5 cm and more will be rounded off to the next higher cm. standard height-weight chart is attached at Annexure – 1."

2. The petitioner says that in view of such stipulation the petitioner should have been declared successful in the PST instead of being rejected on the height ground and ought to have been sent for the next round, i.e., PET. The petitioner has relied upon an order of the Coordinate Bench dated 8th November, 2024 passed in **WPA/26715/2024 (Tushar Singha –Vs.- Union of India & Ors.)** which relates to the selfsame selection process. The

Coordinate Bench in the said order after considering Clause 2(d) of the 2015 guidelines had granted the petitioner in the said writ petition the benefit of the height when it was below 170 cms. but above 169.5 cms. The petitioner in the said case was allowed for the PET. It is also submitted by the petitioner that this order has not been appealed against as of now. No modification application has also been filed against the said order. The petitioner, therefor, submits that he should be given the same benefit when his height on being measured by the PST Board was found to be 169.4 cms. The petitioner also says that he had appealed against the recording of his height measurement by the PST Board wherein on review the actual measurement has not been stated but it is only stated that the petitioner's height is less than 170 cms. It is also the case of the petitioner that at the PST conducted in an earlier examination the petitioner was found to be of 170 cms. On the aforesaid factual matrix the petitioner says that he should have been allowed for PET.

3. On behalf of the respondents it is submitted that the 2015 guidelines relied upon by the petitioner which was also considered in the case of ***Tushar Singha*** (supra) has no manner of application at the PST stage as the preface of such guidelines qualifies that the same is a guideline for Recruitment Medical Examination. The respondents further say that the relaxation as

provided in Clause 2(d) of the said guidelines is only at the Medical Examination Test and not at the PST level. This will be further clear according to the respondents if Clause 2(d) is read harmoniously with Annexure – 1 to the said guidelines at pages 46 and 47 thereof. It is also the case of the respondents that the shortfall in height by 0.5 cm is in respect of computing the Body Mass Index (in short, BMI) of a candidate and is not a relaxation allowed to the minimum height requirement stipulated in the employment notice. The respondents also say that the relaxation can be given by the recruiting medical officer who is not present at the time of PST or is a member of the PST Board. The respondents also say that the height relaxation can be provided only in terms of Clause 12.5 of the employment notice where it is categorically stated that in case of scheduled tribes or some other categories the minimum height will be as stipulated therein which is below the prescribed height of 170 cms. The respondents further say that the recording of height in another PST of a different year is of no relevance as the recording by the PST board as per the selection process in question is the final and binding fact. The petitioner had applied for review but the Review Board also found the petitioner less than 170 cms. and as such he was not selected for the PET. The petitioner should not be allowed the relaxation as the same is likely to open a flood gate

and the entire selection mechanism based on parameters set by expert bodies will become inconsequential. The respondents have also relied upon a judgment reported in **(2024) 4 SCC 336 (Telangana Residential Educational Institutions Recruitment Board –Vs.- Saluvadi Sumalatha & Anr.)** in support of their contention. Relying upon the said judgment the respondents say that the Court should be cautious in dealing with recruitment process adopted by the recruitment agency since the same is a product of a lot of thought process by which the parameters are arrived at.

4. After hearing the parties and considering the materials-on-record, I find that the learned Advocate for the petitioner as also the learned Advocate for the respondents has missed out the very important point that exemption, if any, as interpreted by a Coordinate Bench in **Tushar Singha's** case is not applicable to the facts of the instant case. In **Tushar Singha** (supra) the petitioner was found to be above 169.5 cms., i.e., 169.7 cms. whereas in the instant case the petitioner has been found to be 169.4 cms., i.e. below 169.5 cms. The petitioner, therefor, cannot get the benefit of the said Rule on its simple interpretation that in case of shortfall in height less than 0.5 cm the candidate should be considered to have satisfied the minimum height requirement of 170 cms.

5. I, however, do not have any doubt to agree with the view taken by the Coordinate Bench as on a plain reading of Clause 2(d) of the 2015 guidelines it is clear that in the event the height of a candidate falls short by 0.5 cm then he should be given the benefit and be declared to have qualified the minimum height requirement. I do not agree with the interpretation sought to be given by the learned Advocate for the respondents that the same is only applicable in case of computing the BMI. The stipulation for BMI and the stipulation for the height relaxation are distinctly and separately provided in Clause 2(d). Even if the said Clause is read harmoniously with the provisions of annexure – 1 as submitted by the respondents then also the interpretation sought to be given on behalf of the respondents is not acceptable. The interpretation of Clause 2(d) made on behalf of the petitioner, therefor, is correct and acceptable. However, since the petitioner's height is less than 169.5 cms. the petitioner is not entitled to the benefit of the said Clause 2(d). The petitioner has contended that in an earlier PST the petitioner was found to be 170 cms. There is no scope of considering any factual discrepancy in the measurement arrived at in the PST Examination for 2024 being the subject examination and any other PST Examination for a different year cannot be considered. The law is well settled that while deciding the present case the

recording by the PST constituted for the examination in question has to be the accepted recording otherwise the autonomy of a selection committee available in a selection process will be jettisoned taken into consideration. There is also no dispute as to the ratio laid down in the judgment of **Saluvadi Sumalatha** (supra) relied upon by the respondents but it is absolutely clear from the said judgment that Court can interfere with a selection process in a fit case but has to do with caution and slowly. In the instant case, the petitioner has participated in the selection process and on being unsuccessful even at the Review examination has challenged the recording of his height and the mechanism of recording. Interference with the PST result in such a situation is very limited and to be done with caution. I do not find any reasons to interfere with the result of PST as in the case of the petitioner.

6. In the aforesaid facts and circumstances, the writ petition fails and is, accordingly, dismissed.
7. All parties are directed to act on the server copy of this order duly downloaded from the official website of the Calcutta High Court.

(Arindam Mukherjee, J.)