

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.17367 OF 2024**

Onkar Pandurang MundePetitioner

Versus

Union of India and Ors.Respondents

Mr. Laxman Deshmukh a/w. Mr. Krishna Tarde i/b. Mr. Prashant Subhash Hagare for the Petitioner.

Mr. Kanhaiya Yadav i/b. Mr. Neel Helekar for the Respondents.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 3rd DECEMBER, 2024

P.C. :-

1. By this Petition, the Petitioner desires that he should be declared as having cleared the physical test without even preferring an Appeal or Review Application, which has to be filed within one day of the test.

2. The Petitioner had applied for the post of Constable (General Duty), Central Armed Police Force. He passed the written test. However, he failed in the Physical Standard Test held on 14th October, 2024 since his chest measure 79-86 cms, whereas the bench mark was 80-85 cms. In 2024, he had participated in a

recruitment process for the post of Constable (Tradesman), Central Reserved Police Force. His chest had measured 81-88 cms in July, 2024. However, he could not clear the written test.

3. Petitioner was expected to measure 80 cms, as a normal chest size, and after taking a deep breath, which is called as the expansion test, he was to measure 85 cms. We find that he measured 79-86 cms. Even if the contention of the Petitioner is accepted, he measured 79-86 cms, which is below the bench mark.

4. The test took place on 14th October, 2024. The learned Advocate representing the Respondents submits that a Review Application or an Appeal has to be filed on the same day. No such Application has been tendered by the Petitioner even till today.

5. The learned Advocate for the Petitioner relies upon an order passed by the Delhi High Court in ***Prashant Kumar Singh vs. Staff Selection Commission and Others, (2024) SCC Online Del. 7705***. We are afraid, the said order would not assist the Petitioner since it pertains to the height of a candidate and human height does not decrease or increase depending upon whether a person has

joined a gymnasium or not. The height of a human being is not fluctuating. The said order, therefore, does not assist the Petitioner.

6. The learned Advocate for the Petitioner then relies upon an order passed by the same Bench of the Delhi High Court, dated 7th November, 2024 delivered in ***Ram Singh Saini and Others vs. Staff Selection Commission and Others, [Writ Petition (Civil) No.15223 of 2024]***. In the said matter, the Delhi High Court relied upon a medical certificate issued by Rajkiya Upjila Chikitssalay, Khandela, Sikar, Rajasthan, which mentioned the chest as 80-85 cms. Pitted against the actual test carried out by the Department, which was an open test in the presence of all candidates, the Delhi High Court directed another medical examination of the chest. However, it is mentioned in the order that the said order shall not be treated as a precedent. Naturally, such an order cannot be cited.

7. The learned Advocate for the Respondents is right in submitting that there is a logic behind an Appeal or Review Application being filed for re-measurement on the same day. A person can build his body by millimeters or centimeters by joining a

gymnasium, after the test is conducted by the Department. Within 15 days, the body building exercises can enhance the chest size and, therefore, the mandate that the chest should be re-measured, if an Appeal is preferred, on the same day.

8. We are, therefore, not inclined to follow the course adopted by the Delhi High Court, which relied on a certificate issued by a Taluka Medical Officer for directing a re-measurement of the concerned Petitioner. In the instant case, neither the Petitioner has moved an Application for re-measurement on the same day, i.e., 14th October, 2024, nor was any such Application, immediately served upon the Department expressing a concern that he was not allowed to file such an application. After a passage of six weeks, we are not inclined to direct re-measurement of the Petitioner's chest.

9. **This Writ Petition is, therefore, dismissed.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)