



N THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 6666 OF 2024
WITH
WRIT PETITION NO. 6804 OF 2024

WRIT PETITION NO. 6666 OF 2024

Nikhil S/o. Jagdev Bombatkar,
Aged about 23 years, Occu. Student,
R/o. Pethpura, At Post – Pimpalgaon Raja,
Tq. Khamgaon, District : Buldhana.

... PETITIONER

...VERSUS...

1. Union of India,
Through its Principal Secretary,
Ministry of Personnel,
Public Grievances and Pensions,
Department of Personnel and Training,
New Delhi.
2. Staff Selection Commission
Through its Secretary,
Block No.12, CGO Complex,
Lodhi Road, New Delhi.
3. Detailed Medical Examination Rect. Board,
Through its Presiding Officer,
CT/GD-2024, Subsidiary Training Center,
BSF, Chakur, District Latur.
4. Review Medical Examination Rect. Board,
Through its Presiding Officer,
CT/GD-2024, Group Center CRPF,
Nagpur, Tq. & Dist. Nagpur.

... RESPONDENTS

WITH

WRIT PETITION NO. 6804 OF 2024

Mahesh S/o. Gajanan Lahariya,
 Aged about 22 years, Occu. Student,
 R/o. Guhsar, At Post – Guhasar District,
 Tq. Akola, District - Akola

... **PETITIONER**

...**VERSUS**...

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 Through its Presiding Officer,
 CT/GD-2024, Group Center CRPF,
 Nagpur, Tq. & Dist. Nagpur.

... **RESPONDENTS**

 Mr. V. R. Deshpande, Advocate for the Petitioner in both the Writ Petitions.
 Mr. C. J. Dhumne, Advocate for Respondent Nos.1, 2 and 4/IOI.

CORAM : **NITIN W. SAMBRE AND**
 MRS. VRUSHALI V. JOSHI, JJ.

DATE : **12.12.2024**

JUDGMENT (PER : MRS. VRUSHALI V. JOSHI, J.):-

1. **Rule.** Rule is made returnable forthwith. Heard finally by
 consent of learned counsel appearing for the parties.

2. In both the petitions, the petitioners are challenging the communications made by the respondent Nos.3 and 4 declaring the petitioners as 'medically unfit' because of tattoo marks on forearm. The petitioners have challenged the said communications before this Court.

3. The petitioners in both the petitions have participated in the selection process for Constables (GD) in Central Armed Police Forces (CAPFs), SSF and Rifleman (GD) in Assam Rifles Examination-2024. The advertisement was issued on 24.11.2023 by the respondents. The petitioners appeared for the written examination and got through the written examination. Thereafter, both the petitioners were subjected to medical tests. After undergoing the test, the Medical Officer opined that the petitioners were 'unfit' on the ground that there is a tattoo mark on right forearm of both the petitioners. On request of the petitioner in Writ Petition No.6666/2024, the result of the medical examination was reviewed by the Panel of the experts. They found the petitioner to be 'unfit'. According to the team of experts, they noticed the tattoo on right forearm (post laser removal) and stated that the opinion of surgeon is required.

4. In case of petitioner Mahesh in Writ Petition No.6804/2024, he has wrote a letter to the Authority requesting for 2 months time to appear before the Review Committee. His request was rejected by the Director General, C.R.P.F. (Recruitment) dated 11.10.2024 stating that another chance to reappear in Review Medical Test cannot be given after two

months as there is no provision for appeal against the review of Medical Examination. In consequence of the opinion expressed by the Panel and the request rejected by the Recruitment Board, the petitioners would not be permitted to participate in further process nor the petitioner would be included in the select list. As such, at this stage, the petitioner has approached this Court.

5. The learned Counsel for the petitioner has stated that the issue raised in both the petitions is covered by the judgment of this Court and the High Court of Delhi. In support of his argument, the learned Counsel for the petitioners has relied on the following judgments :

- 1] *Shubham Sharma Vs. Union of India and Ors. [Writ Petition (C)15302/2022 & CM APPL.4748/2022(stay).*
- 2] *Vineet Kumar Meena Vs. Union of India and Ors. [Writ Petition (C)16030/2022 & CM APPL.50007/2022(for stay).*
- 3] *Akshay Choudhary Vs. Union of India and Ors. [Writ Petition (C)5602/2024.*
- 4] *Bhimrao Shamraoji Surve Vs. Union of India and Ors. [Writ Petition 5551/2017].*
- 5] *Sangharsh Tukaram Lonekar Vs. Union of India and Anr. [Writ Petition No.9061/2017]*
- 6] *Shubham Sharma Vs. Union of India and Ors. [Writ Petition (C)15302/2022 & CM APPL.4748/2022(stay).*

- 7] *Union of India and Ors. Vs. Sanyogita [D.B. Spl.Writ No.414/2024].*
- 8] *Shridhar Mahadeo Pakhare Vs. Union of India and Ors. [Writ Petition No.10026/2017]*
- 9] *Hardik Rameshkumar Vaghela Vs. Union of India and Ors. [Writ Petition No.1991/2019]*
- 10] *Saurabh S/o. Suresh Junghare Vs. The Union of India and Ors. [Writ Petition No.1637/2024].*

6. Both the petitioners have undergone the treatment of removal of tattoo. The petitioner in Writ Petition No.6666/2024 has also given a certificate of Dr. Abhishek Patokar, who has stated that the petitioner is undergoing tattoo removal laser treatment and it will fade out in coming few sessions. The learned Counsel has placed on record the certificate issued by Dr. Abhishek Patokar along with the photographs.

7. The reply is not filed on record in both the petitions. The learned Counsel has stated that the petitions are covered by the judgment passed by this Court. He has fairly submitted that, in respect of tattoo marks, rules were not incorporated in the recruitment notice issued in the year 2024, but as a disciplined force and law enforcing agency, the respondent shall be at liberty to consider and select the candidates who are suitable for the post.

8. We have considered the submissions advanced by the parties. From the record, we do not find that a reference to “tattoo marks” is mentioned in the notice issued in respect of the recruitment for the year 2024. The only issue placed before us is, as to whether the petitioners can be debarred from consideration only on the ground of having tattoo marks on right hand of the petitioners in both the petitions, in the absence of any such condition. At the same time, the learned Counsel for the petitioner in Writ Petition No.6666/2024 has also placed on record certificate issued by Dr. Abhishek Patokar under whose supervision the petitioner claims to have got tattoo marks removed. The petitioner in 6804/2024 has also filed the receipt of Government Hospital about taking treatment of tattoo removal on 26.09.2024. The learned Counsel submits that the petitioners undertake to make efforts to continue to avail of such medical treatment under the supervision of experts for getting the tattoo marks removed so that they can satisfy all the conditions and present themselves as suitable candidates.

9. As this issue is covered by the judgment of this Court, we are of the view that the action of the respondents of declaring the petitioners ‘medically unfit’ for having a tattoo on the right forearm, is unsustainable. We are, therefore, inclined to direct that the petitioners’ candidature shall not be rejected on the ground that the petitioners have a tattoo on the right forearm. We are, thus, inclined to direct the respondent Nos.1 and 2 to

consider the case of the petitioners for appointment on the post of Constable. Both these Writ Petitions stand allowed.

10. Rule is, therefore, made absolute in terms of prayer Clauses (a), (b) and (c) in both the writ petitions. No order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)