

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CWP-1633-2019
Date of Decision: 12.02.2024

Amit Kumar Mishra ...Petitioner

Versus

Director General ITBPF and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rajeev Anand, Advocate for the petitioner
Mr. Arvind Moudgil, Senior Panel Counsel,
for Union of India-respondent Nos.1 to 3

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of recommendation dated 03.12.2018 (Annexure P-9) of the Medical Board and order dated 24.12.2018 (Annexure P-8) whereby service of the petitioner was proposed to be terminated.
2. The petitioner, pursuant to an advertisement, applied for the post of Constable (General Duty) in Indo-Tibetan Border Police Force (for short 'ITBPF/Force'). The petitioner cleared written test which was followed by physical and medical test. The petitioner was issued appointment letter on 29.04.2013 and he joined the force on 28.05.2013. The respondent-force, finding disability, constituted a Medical Board to examine the petitioner. The Board vide recommendations dated 03.12.2018 (Annexure P-9) recommended

his termination from the service. The petitioner was issued show cause notice dated 24.12.2018 (Annexure P-8) whereby he was informed that Medical Board has found him unfit for training, hence, he is going to be terminated from service. The petitioner was granted opportunity to file appeal within 30 days along with evidence pointing out discrepancy in the opinion of the Board. The petitioner has filed reply to aforesaid notice.

3. Mr. Rajeev Anand, Advocate, submits that petitioner has suffered wrist injury during training and he was found medically fit at the time of induction, thus, he cannot be invalidated without pensionary benefits. The termination would entail depriving him from all service benefits. The Court of Inquiry had formed an opinion that petitioner has suffered injury during service, thus, he is entitled to service benefits.

4. *Per contra*, Mr. Arvind Moudgil, Senior Panel Counsel for Union of India-respondent submits that petitioner has been declared invalid on account of two disabilities. The first disability erupted on account of injury during service, however, second disability has no bearing with his service.

5. On being confronted with the fact that petitioner was found medically fit at the time of joining force, Mr. Moudgil, expressed his inability to controvert the same. He further concedes that petitioner, since 2013, is working with the respondent-force.

6. In the premise that petitioner joined respondent-force in 2013 and till date he is continuing; the respondents are conceding that petitioner suffered one injury during service and Court of Inquiry has suggested for service benefits, this Court directs the respondent-force to pass an appropriate

order with respect to impugned show cause notice keeping in mind nature of injuries suffered by the petitioner, tenure of his service, his medical condition at the time of joining force and opinion of the Court of Inquiry. The needful shall be done within three months from today.

7. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

12.02.2024
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>