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

CWP-10395-2024 (O&M)

Date of decision: 23.05.2024

Inspector General of Police, Union Territory, Chandigarh and others

.....Petitioners

V/s

Central Administrative Tribunal, Chandigarh Bench and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Aman Bahri, Advocate and
Mr. Mayank Sharma, Advocate
for the petitioners.

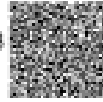
Mr. Sandeep Siwatch, Advocate
for the respondent No.2.

DEEPAK SIBAL J. (ORAL)

Affidavit dated 22.05.2024 of Superintendent of Police, Head
Quarter, Chandigarh Police, U.T., Chandigarh filed in Court today, is ordered
to be taken on the record.

2. The present petition has been preferred at the instance of the
Union Territory, Chandigarh to challenge therein judgment dated 21.09.2023
passed by the Central Administrative Tribunal, Chandigarh Bench (for short –
the Tribunal) allowing respondent No.2's Original Application (for short –
OA) through which she had sought appointment in the Chandigarh Police as a

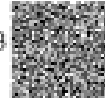
Constable (Female).



3. Through an advertisement dated 19.11.2015 the Chandigarh Administration invited applications for appointment of 520 Constables out of which 143 were to be filled up from females belonging to the General Category. In pursuance to the aforesaid advertisement, respondent No.2 made an application for consideration of her candidature against the aforesaid 143 posts. The petitioner being eligible was considered. On the declaration of the final results she stood at Merit No.17 in the waiting list. At least 17 of the 143 selected candidates did not join. Therefore, respondent No.2 was called for medical examination and document verification. After her medical examination respondent No.2 was declared unfit as her eyesight was found not to be meeting the required standards. Accordingly, her candidature was rejected.

4. Through an OA filed before the Tribunal, respondent No.2 questioned the refusal by the petitioners to appoint her as a Constable. In support of her case she relied on a medical certificate issued by the Government Medical College and Hospital, Sector 32, Chandigarh. The petitioners contested respondent No.2's OA. Their stand before the Tribunal *inter alia* was that respondent No.2 had been found unfit by a Medical Board constituted by the petitioners which decision of the Medical Board be treated as final.

5. With an attempt to resolve the afore controversy, through its interim order dated 28.07.2023 the Tribunal directed that the eyesight of respondent No.2 be tested by a Board to be constituted by the Postgraduate Institute of Medical Education and Research, Chandigarh (for short – PGIMER, Chandigarh).

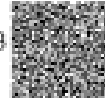


6. In compliance of the interim directions issued by the Tribunal on 28.07.2023 a Medical Board of the PGIMER, Chandigarh examined respondent No.2's eyesight and concluded that she was fit for appointment as a Constable (Female). On the basis of the aforesaid opinion, the Tribunal ordered respondent No.2's appointment. Such order of the Tribunal has been challenged through the instant writ petition by the Union Territory, Chandigarh.

7. Learned counsel appearing for the petitioners submits that at the time of consideration of her candidature respondent No.2 was examined by the Medical Board constituted by the U.T., Administration and her eyesight was found to be not meeting the required norms and only that report could and should have been considered by the Tribunal. It was further submitted that since all the advertised posts had been filled up, in the absence of respondent No.2 having not impleaded the last selected Constable (Female) in the General Category, the Tribunal should and could not have ordered respondent No.2's appointment.

8. Learned counsel for the petitioners has been heard.

9. Through advertisement dated 19.11.2015, the Chandigarh Administration invited applications to fill up 520 posts of Constables. Out of the advertised posts 143 were to be filled up from females belonging to the General Category. Respondent No.2 was an applicant for consideration of her candidature against the aforesaid 143 posts. After the declaration of the final results, respondent No.2 found herself at merit No.17 in the waiting list. Since, at least 17 of the candidates who made it to the select list did not join, respondent No.2 was called for medical examination and document



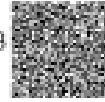
verification. After being examined by a Medical Board she was declared unfit as her eyesight was found not to be meeting the required standards. Resultantly, she was denied appointment.

10. Armed with a medical certificate from the Government Medical College and Hospital, Sector 32, Chandigarh respondent No.2 knocked the doors of the Tribunal through filing of OA. On being put to notice of her OA the petitioners contested her claim by pressing into service the medical opinion by the Medical Board on the basis whereof respondent No.2 had been denied appointment. With an attempt to resolve the issue, the Tribunal, through its interim order dated 28.07.2023, directed respondent No.2 to be examined by a Medical Board to be constituted by the PGIMER, Chandigarh. In compliance with the interim order of the Tribunal dated 28.07.2023, a Medical Board was constituted by the PGIMER, Chandigarh. The said Medical Board which comprised of two Professors and one Assistant Professor of the Department of Ophthalmology, PGIMER, Chandigarh, after examining respondent No.2 rendered the following opinion:-

“The Medical Board consisting of 3 members i.e. Dr. Ramandeep Singh, Dr. Chintan Malhotra and Dr. Mohit Dogra has examined Mrs. Savita, 32yr Female, w/o Sh. Sunil Kumar, resident of Nandgaon, Haryana, India vide CR. No 201903975830 at the Advanced Eye Centre, PGIMER, Chandigarh on 30.08.2023. On examination, her unaided visual acuity is 6/6 (partial) in right eye and 6/6 -1 in the left eye. Best corrected visual acuity is 6/6 (-0.75 Dcyl x 25°) in right eye and 6/6 (+0.50 x 25°) in the left eye colour vision on Ishihara chart is within normal limit. On slit lamp examination LASIK flaps are present in both eyes. There is no pathological myopia. Post segment is within normal limit in both eyes. A regressed pannus is present in the superior cornea extending 2mm from the limbus but is outside the papillary area. This condition is non progressive.

LASIK is permitted correction for Technical Services and she has no pathological myopia. We, the board, consider her fit for the post of constable (Female).”

(Emphasis supplied)

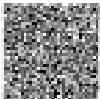


11. The afore quoted opinion by the Medical Board of Senior Ophthalmologists of the PGIMER, Chandigarh clearly certifies respondent No.2's eyesight to be normal. It further specifically declares her medically fit to be appointed as a Constable.

12. The petitioners neither challenged the afore referred interim order of the Tribunal dated 28.07.2023 through which the Tribunal had issued directions for the evaluation of respondent No.2's eyesight by a Medical Board to be constituted by the PGIMER, Chandigarh nor have questioned the afore quoted report by the Medical Board of the PGIMER, Chandigarh.

13. The petitioners raise an objection that all the advertised posts have been filled up and therefore, in the absence of impleadment of the last selected and appointed candidate in respondent No.2's category, no relief can be granted to her.

14. Respondent No.2 was denied appointment on the ground that her eyesight was not meeting the required standards but the medical certificates by both the Government Medical College and Hospital, Sector 32, Chandigarh and the PGIMER, Chandigarh show otherwise. In this factual scenario, we had directed the petitioners to inform us as to whether there was any vacancy of Constable (Female) in the General Category available, as on date, in the Chandigarh Police. In compliance, an affidavit has been filed by the petitioners as per which three vacancies in the afore category, which are also not part of any advertisement, are available. That being so, in the peculiar facts of the instant case, we direct that respondent No.2 be adjusted against one of the said three vacancies.



15. In the light of the above discussion, we are not inclined to interfere with the impugned judgment.
16. Dismissed.
17. Pending miscellaneous application(s), if any, shall also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

23.05.2024
Sapna

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No