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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 24.07.2024

+ **W.P.(C) 10084/2024**

STAFF SELECTION COMMISSION AND ORS.Petitioners

Through: Mr. Apoorv Kurup, Mr. Gurjas Narula and Ms. Aanchal Dubey, Advocates with Mr. Ajit Singh, Inspector.

versus

DEEPAK YADAV

.....Respondent

Through: Ms. Esha Mazumdar, Mr. Setu Niket, Ms. Unni Mayas, Mr. Ishan Singh and Ms. Chetna, Advocates.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T (O R A L)

CM APPL. 41330/2024 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. Accordingly, the application stands disposed of.

W.P.(C) 10084/2024 & CM APPL. 41329/2024 (stay)

3. The present writ petition has been filed under Article 226 read with Article 227 of the Constitution of India seeking the following prayer:

“quash and set aside the per-se perverse order dated 22.04.2024 in OA No. 597 /2024 passed by Central Administrative Tribunal Principal Bench, New Delhi.”



4. The Notification for direct recruitment to the post of Constable (Exe) Male in Delhi Police, 2023 was issued on 01.09.2023 after giving due reservations to SC/ST/OBC/EWS & Ex-Servicemen candidates as per Rules and the same was uploaded on the official website of the Staff Selection Commission ('SSC'). In the advertisement, the above noted '*Medical Standard for Constable (Exe) Male & Female*' were clearly specified at Point No. 13. Online applications were allowed to be submitted from 01.09.2023 to 30.09.2023 and subsequently, the rectification was allowed as per conditions mentioned in the advertisement. Pursuant to Standing Order no. HRD/4/2022, the respondent applied for the post of Constables (Exe.) Male in the Delhi Police Examination-2023.

5. The SSC conducted the Computer Based Examination ('CBE') on pan India basis from 14.11.2023 to 03.12.2023 and declared the results thereof on 31.12.2023. A total of 86,049 candidates including the Respondent herein qualified for the CBE.

6. On 13.01.2024, the Physical Endurance and Measurement Test ('PE&MT') of the candidates, who were shortlisted by the SSC in the CBE for appearing in PE&MT, was conducted by the Delhi Police from 13.01.2024 to 20.01.2024.

7. On 16.01.2024, an Order was issued by the Ministry of Home Affairs ('MHA'), Government of India for constitution of the Medical Board for conducting Detailed Medical Examination ('DME') and Review Medical Examination ('RME') of candidates of Constable (Exe.) Male and Female in the Delhi Police through SSC. The matter was examined by the Competent



Authority i.e., MHA to complete the task of medical examination in a time bound manner under Mission Recruitment Mode.

8. The detailed Medical Examination (DME) of the respondent was conducted at BSF Hospital, Chhawala, New Delhi on 18.01.2024, wherein he was declared Unfit on account of *“faded tattoo on the right forearm”*. Thereafter, the Review Medical Examination (RME) of the respondent was conducted by the Review Medical Board, consisting of members as Senior Doctors, in BSF Hospital, Tigri, New Delhi on 22.01.2024 wherein he was declared UNFIT on account of *“faded but visible tattoo on vertical aspect of right forearm”*.

9. Learned counsel appearing on behalf of the petitioners submits that the decision of the Review Medical Board is final and no appeal/representation will be entertained against the decision of the said Board.

10. Undisputed facts are that the final result for recruitment to the post of Constable (Exe) Male & Female in Delhi Police Examination- 2023 was declared by the Staff Selection Commission on 24.01.2024. The first batch of the provisionally selected candidates, whose codal formalities viz. verification of character & antecedents, final checking of documents and medical examination were completed in all respect, were sent for basic training from 04.03.2024. The basic training of the second batch has been commenced from 01.07.2024. As such, recruitment process for the post of Constable (Exe.) Male & Female in Delhi Police Examination -2023 has been completed in all respect.



11. It is pertinent to mention herein, when any candidate has a tattoo on his/her forearm, who is entering in the selection process of any force including Delhi Police and if that tattoo which is objectionable to the petitioners herein then opportunity is always granted to such candidate to get it removed within a time bound manner. Despite, if he or she still does not get it removed, his or her candidature is liable to be rejected.

12. In the present case, the Medical Board was held on 20.01.2024 and subsequently, the Review Medical Board was held on 22.01.2024. Even before the said period, the respondent was undergoing the surgery for tattoo removal and it is because of this reason that the tattoo was found faded on the forearm of the respondent. Therefore, the respondent had no opportunity to atleast appear before the Review Medical Board after getting the procedure complete for tattoo removal done.

13. In forenoon session, for our satisfaction we asked the respondent to appear in person in Court today and accordingly he appeared. We have physically seen the right forearm of the respondent and from the naked eye, the tattoo is not even visible. The same has been shown to the counsel for the petitioners and the officials who are present in Court to assist the learned counsel. According to us, there is no clear visible tattoo on the forearm of the respondent. However, in place of the tattoo there is visible very dim scar. Sometimes such types of scars are natural and therefore, the candidates cannot be rejected on that ground.

14. In the present case, as on date the respondent does not have a visible tattoo on his right forearm and he is otherwise eligible in all aspects.



15. At this stage, reference is made to a decision of the Division Bench in the case of *Union of India, Through Secretary, Ministry of Home Affairs, Govt. of India versus Sanyogita* (2024:RJ-JD:20026-DB), wherein while dealing with a similar issue, the High Court of Rajasthan had observed the following:

“8. A bare perusal of the aforesaid provision would reveal that what could be made a ground for disqualification of a candidate would be existence of tattoo mark. The background in which the tattoo mark has been treated to be a ground for medical unfitness has been stated in the first part of the provisions. It is stated that such tattoo marks are not only distasteful but also distract from good order and discipline in the force. However, there is no absolute prohibition in having a tattoo mark. The provisions carve out exception that a candidate despite having tattoo mark, would not be held to be medically unfit.”

16. In view of the above, in our considered opinion, we do not find any error or perversity in the order passed by the learned Tribunal. Therefore, we find no merit in the present petition and, accordingly, the same is dismissed along with pending application.

17. It is also not the case of the petitioners that all the vacancies are already filled up since the basic training of the second batch has been commenced from 01.07.2024. Accordingly, the petitioners are directed to allow the respondent to join the second batch for training within a week from the receipt of this order.

SURESH KUMAR KAIT, J

GIRISH KATHPALIA, J

JULY 24, 2024/riya