



2024:DHC:8275-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 24.10.2024***

+ W.P.(C) 10182/2024 & CM APPL. 41783/2024
NARMETA MANOJ KUMARPetitioner
Through: Mr. P. Sureshan, Adv.

versus

UNION OF INDIA AND ORS.Respondents
Through: Mr. Siddhartha Shankar, CGSC
with Mr. Chetan Jadon and Mr.
Bhanwar Jadon, Advs. and
Asstt. Comdt. Anand and
Inspector Yespal, CISF.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. This Court had passed the following detailed order on
25.07.2024:-

“3. The present writ petition under Article 226 of the Constitution of India has been filed by a Constable (General Duty) in CISF, who qualified the written Limited Departmental Competitive Exam (‘LDCE’) conducted by the CISF in April, 2024 for the post of Assistant Sub Inspector (Executive) pertaining to vacancy advertised on 29.12.2024, seeking a direction to the respondents to conduct a fresh Physical Endurance Test (‘PET’). The petitioner also seeks to assail the letter dated 06.07.2024 issued by the respondents whereby he was informed that he could not qualify the 100 meters race competition.

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4. Upon an advertisement being issued by the respondents on 29.12.2022 inviting applications for recruitment to the post of ASI (Exe) through LDCE for the vacancy year 2022, the petitioner submitted his application and appeared in the written examination held on 09.04.2024. On 14.05.2024, while practicing for PET, the petitioner who is already serving as a Constable suffered a fracture in his right knee. Before he could recover from his injury, the results of the LDCE written exam were declared on 11.06.2024, in which he emerged successful. However, he was still recovering from his knee injury, the petitioner on 25.06.2024, submitted a representation to the competent officer with all his medical documents requesting that his PET be postponed by a few weeks. His request was, however, rejected and he was informed that the PET had to be completed by 02.07.2024. In these circumstances, the petitioner gave another representation with a prayer that his PET/PST be conducted on 02.07.2024. The petitioner accordingly appeared in the PST, PET and document verification on 02.07.2022. Though despite his injury, the petitioner managed to qualify the 1600 meters run, he was unsuccessful in the 100 meters race which was held just 10 minutes after the 1600 metres run. Consequently his candidature was rejected vide the impugned order. Being aggrieved, the petitioner has approached this Court seeking a direction to the respondents to conduct a fresh PET for him.

5. Learned counsel for the petitioner submits that though the petitioner had suffered a fracture in his right knee on 14.05.2024 during one of his practice sessions, the respondents by rejecting his representation for postponement of PET compelled him to participate in the PET on 02.07.2024 with an injured knee.

6. Issue notice. Mr. Siddhartha Shankar Ray, learned counsel accepts notice on behalf



of the respondents and submits that since the petitioner had voluntarily appeared in the PET, he cannot now urge that he was unable to qualify the PET due to his knee injury.

7. Having heard the learned counsel for the parties and perused the record, we find that it is not denied by the respondents that the petitioner's request for postponement of his PET was rejected by the respondents with a warning to him that if he did not appear for the PET on 02.07.2024, his candidature would be rejected. It appears that, since the petitioner was left with no other option, he appeared for the said test despite not having fully recovered from the fractured knee. In fact, to the credit of the petitioner, despite having suffered a fracture on his right knee on 14.05.2024, he managed to run and qualify in the 1600 meters race but was unable to qualify in the subsequent 100 meters race which was held within 10-15 minutes of the first run. In the light of the facts, we are of the prima facie view that the respondents ought to have considered the petitioner's request compassionately in consultation with an Orthopaedic doctor and postponed the petitioner's PET for some time so as to enable the his knee injury to completely heal.

8. At this stage, learned counsel for the respondents prays for time to obtain instructions so as to enable the respondents to consult an Orthopaedic doctor with reference to the petitioner's injury.

9. At request, list on 06.08.2024.

10. While granting time to the respondents, we direct that till the next date one vacancy for the post of ASI(Exe) will be kept reserved for the petitioner. Further, on the next date, the Orthopaedic Doctor whom the respondents propose to consult will remain present in Court."

2. Pursuant to the above direction, the respondents filed an affidavit dated 13.08.2024 of Commandant Mr. Pawan Kumar



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(Orthopaedic Surgeon), wherein he states that the reports of the X-Ray dated 14.05.2024 and of the MRI dated 20.05.2024 and 10.06.2024 do not reflect or have any signs of fracture of the Tibia, and has opined that the petitioner did not suffer from a fracture of the Tibia. He has further opined that the injury suffered by the petitioner, in normal course, would have recovered within a period of four weeks from the date of occurrence of the injury, that is, 14.05.2024, and therefore, he was physically fit on the day he appeared for the Physical Endurance Test (PET), that is, 02.07.2024.

3. In response to the said affidavit, the petitioner has also filed an affidavit dated 16.08.2024, annexing therewith a medical certificate dated 01.07.2024 from Dr. Anshul Goel, Venkateshwar Hospital, Dwarka, New Delhi, certifying therein that though the condition of the petitioner was getting better, but the stress injury could increase if the graded training is not followed. He was advised rest and a decrease in movement with low intensity training since 20.05.2024.

4. The petitioner further annexed with this affidavit, the prescription dated 16.08.2024 from the said hospital, which reads as under:-

“Chief Complaints

Patient Narmeta Manoj Kumar 32/male has been under treatment for right knee and Proximal tibia pain since 20/05/2024. He was visiting other doctors for one week problem which started on 14/07/2024. While his x ray was normal, MRI suggested there were bony contusions, mcl, LCL sprains and ACL sprain edema and a trabecular compression injury in the medial tibial condyle. Signifying a subtle or a stress fracture. It correlated with the patient's activity as he was running and



sprinting for his annual physical checkup /appraisal.

The stress injury was tender, and rest was given to patient and activity modification was prescribed and he was put on close follow up.

His injuries can obviously heal in 4 to 6 weeks, but such stress injuries/ fractures also need graded rehabilitation for them to not occur again. There is no rule of thumb to know the exact time for full healing, but patient is examined routinely, and his activity levels are checked routinely to determine his fitness, as was in this case. He was told about avoiding high intensity training and sprinting, as he was doing before this injury, but he probably sprinted in his medical test and the pain reoccurred.

He has been put under graded activity modification again and he is still under rehabilitation.

he has been taking second opinion from sports injury Centre at Safdarjung hospital and advised same.

he has been prognosticated about the need of plaster or surgery if the grade of injury becomes higher

*Sd/-
DR. ANSHUL GOEL”*

5. The petitioner along with the petition has also filed the prescription/advise received by him from the Indian Spinal Injuries Centre, as also from the Sports Injury Centre and Vardhman Mahavir Medical College (VMMC) & Safdarjung Hospital.

6. The learned counsel for the petitioner submits that in view of the consistent medical certificates issued by the above hospitals and institutes, the stand of the respondents that the petitioner was fully fit on 02.07.2024 to undertake the PET, cannot be accepted.



7. On the other hand, the learned counsel for the respondents submits that the Orthopaedic Surgeon of the respondents has clearly opined that the injury suffered by the petitioner would have recovered in normal course within a period of four weeks from the date of the injury and, therefore, the petitioner was fully fit to undertake the PET on 02.07.2024. He submits that merely because the petitioner failed in the same, no further concession can be granted to him. He further submits that the petitioner, with his own hand, had submitted a letter to the respondents stating therein that he is participating in the PET of his own free Will and has not been forced to undertake the same by anyone.

8. We have considered the submissions made by the learned counsels for the parties.

9. Though we would give due regard to the affidavit of Commandant Mr. Pawan Kumar (Orthopaedic Surgeon) referred herein above, at the same time, we are faced with the consistent medical opinions/certificates from the Sports Injury Centre, VMMC & Safdarjung Hospital, Indian Spinal Injuries Centre and the Venkateshwar Hospital, which is also a CAPF empanelled hospital, who have all opined that the injury suffered by the petitioner required care and he was advised not to carry out any strenuous activity. In fact, the prescription dated 16.08.2024 states that due to his participation in the PET, he has aggravated his injury.

10. In our view, the respondents should have sympathetically considered the request of the petitioner for an extension of time for undergoing the PET. It appears that as the respondents were not



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agreeing to the extension of time, the petitioner was forced to address a letter stating that he was physically fit to undertake the PET and was undertaking the same out of his own free will.

11. We have also been informed that the participation in the run is not comparative, that is, merit based, but only qualifying in nature, that is the candidate has to complete the run within the prescribed period.

12. Keeping in view the peculiar facts and circumstances of the present case, we direct the respondents to give another chance to the petitioner to undertake the run/PET exercise. For the said purpose, the respondents shall, within a period of three weeks from today, inform the petitioner of the time and place where he has to report for undertaking this test. In case the petitioner qualifies in the said test, the further process of appointment of the petitioner to the post of Assistant Sub Inspector (Executive) shall be processed by the respondents.

13. The petitioner, if selected, shall maintain his seniority along with his batchmates and will be entitled to all consequential reliefs.

14. The petition is allowed in the above terms.

15. *Dasti.*

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 24, 2024/ss/B/SJ

Click here to check corrigendum, if any