



2024:DHC:9186-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 27.11.2024*

+ W.P.(C) 65/2024 & CM APPL. 227/2024

RAKESH KUMARPetitioner

Through: Mr. Gaurav Sarawat, Adv.

versus

UNION OF INDIA AND ORSRespondents

Through: Mr. Nirvikar Verma, SPC with
Mr. Devender Singh, DC
(JAG), ITBP.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed by the petitioner challenging his rejection for appointment to the post of Constable (Pioneer) for which he had applied pursuant to an advertisement issued by the Indo-Tibetan Border Police ("ITBP") Force. The petitioner has been denied appointment and declared unfit for the same on the grounds of being overweight.

2. The learned counsel for the respondents drawing our reference to Annexure-I of the "Revised Uniform Guidelines for Recruitment Medical Examination for recruitment of GOs and NGOs in the Central Armed Police Forces (CAPFs) & AR", submits that keeping in view



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the height and age of the petitioner, his ideal/permissible weight should have been between 60 kgs to 73 kgs. However, at the Physical Standard Test (PST) stage, his weight was found to be 88.1 kgs; at the Detailed Medical Examination (DME) stage, it was 84 kgs; and at the stage of Review Medical Examination (RME), it was 81.5 kgs, which were all above the prescribed limit and therefore, the petitioner was declared unfit for appointment. The learned counsel for the respondents has placed reliance on the Judgment of this Court in ***Jonu Tiwari vs. Union of India and others***, NC:2020:DHC:2482-DB.

3. On the other hand, the learned counsel for the petitioner has placed reliance on a health certificate issued by the District Hospital, Fatehpur, stating that the weight of the petitioner was 78 kgs, which would be within the maximum permissible condonable limit. Placing reliance on the Judgment of the Supreme Court in ***Rakshit Shivam Prakash vs. Union of India and Anr.***, 2024 SCC OnLine SC 1868, and of this Court in ***Sonu Rajput vs. Union of India and Anr.***, 2024 SCC OnLine Del 6437, he submits that another opportunity should be granted to the petitioner for his medical examination to find out his accurate weight, and if found fit, the petitioner should be granted an opportunity to further participate in the selection process for the above post.

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

5. In the present case, the appointment sought by the respondents was for the post of Constable (Pioneer) in an Armed Force, that is, the ITBP. It need not be emphasised that physical fitness for such a post is



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of paramount importance, and there can be no compromise in the same. The prescribed standard of weight, keeping in view the age and the height of the petitioner, was between 60 kgs to 73 kgs. He has been found to be overweight at the PST stage, the DME stage, as also at the RME stage, and that too beyond the condonable limit.

6. Even the certificate from the District Hospital, Fatehpur, which has been relied on by the counsel for the petitioner, reports the weight of the petitioner to be 78 kgs, that is, just borderline to the maximum condonable weight. This certificate has been obtained more than a month after his rejection by the RME, therefore, cannot be given much credence.

7. In the facts of the present case, therefore, we do not find it to be a fit case to grant any relief to the petitioner.

8. In *Rakshit Shivam Prakash (supra)*, the Supreme Court was considering a case for an appointment in the Union Public Service Commission (UPSC), that is a Civil Service. The candidate there had been declared “temporarily unfit for a minor deviation of his Body Mass Index (BMI)”. In *Sonu Rajput (supra)*, this Court was confronted with a petition where a candidate had delivered a child merely four months before the date of the medical examination, and this Court was of the opinion that she should have been granted reasonable time by the respondents to enable her to lose weight gained by her during the pregnancy, instead of declaring her medically unfit on account of weight gained by her during the pregnancy. The said judgments, therefore, cannot come to the aid of the petitioner.

9. In view of the above, the petition along with pending



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application is dismissed. There shall be no order as to cost.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 27, 2024/ss/B/DG

Click here to check corrigendum, if any

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