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

% **Decision delivered on: 09.09.2024**

+ **W.P.(C) 12651/2024, CM APPL. 52606/2024, CM APPL. 52607/2024, CM APPL. 52608/2024 & CM APPL. 52609/2024**

STAFF SELECTION COMMISSION THROUGH ITS
CHAIRMAN NORTHERN REGION & ORS.Petitioners

Through: Mr. Vijay Joshi with Mr. M. Joshi,
Advocates.

versus

AJAY KHATRI

.....Respondent

Through: Ms. Esha Mazumdar, Mr. Setu
Niket, Mr. Ishan Singh, Ms.
Unnimaya 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)

1. By way of the present writ petition filed under Articles 226 & 227 of the Constitution of India, the petitioners have sought the following relief:

“(a) quash and set aside the per-se perverse order dated 22.04.2024 passed by Central Administrative Tribunal Principal Bench, New Delhi in O.A No. 715/2024 titled as “Ajay Khatri Versus Staff Selection Commission & Ors”



2. The Central Administrative Tribunal (hereinafter referred to as “Tribunal”) vide order dated 22.04.2024 has allowed the O.A. No. 715/2024 filed by the respondent herein by relying upon the judgment dated 24.07.2024 titled ***Staff Selection Commission and Ors. vs. Deepak Yadav***, 2024:DHC:5480-DB.

3. Facts of the case ***Deepak Yadav*** (supra) are that in the said case the detailed Medical Examination (DME) of the respondent therein 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*”.

4. In the case of ***Deepak Yadav*** (supra), this Court directed the respondent therein to appear in person in Court and accordingly, he appeared before the Court on 24.07.2024. On the said date, we had physically seen the right forearm of the respondent therein and we observed that from the naked eye the tattoo was not even visible. The same was also shown to learned counsel for the petitioners therein and the officials who were present in Court on that day to assist the said



counsel. Accordingly, in *Deepak Yadav* (supra) this Court opined that there was no clear visible tattoo on the forearm of the respondent therein. However, it was specifically mentioned “*in place of the tattoo there is visible very dim scar*”. This Court also observed that sometimes such types of scars are natural and therefore, the candidates cannot be rejected on that ground.

5. Falling back to the present case, it is pertinent to mention here that the tattoo was on the right forearm of the respondent who is present in the Court today. We have seen the right forearm of the respondent and from the naked eye, the tattoo is not visible and the same is also shown to learned counsel appearing on behalf of the petitioners. Learned counsel for the petitioners does not dispute the fact that from the naked eye, tattoo is not visible on the right forearm of the respondent, however, he submits that the Court should not interfere in such cases where medical fitness is in question. He relied upon the judgment dated 17.11.2011 passed by this Court in the case titled *Amardeep Singh vs. Union of India & Ors.*, 2011:DHC:5793-DB.

6. Learned counsel for the petitioners submits that in the case of *Amardeep Singh* (supra), the Division Bench of this Court held that the wisdom, advisability and relevance of the medical fitness parameters and standards laid down by the respondents for recruitment was ordinarily



not amenable to judicial review, unless it could be demonstrated that the medical parameters for not selecting a candidate had been applied contrary to any of the rules and regulations or any statutory provision.

7. We have perused the aforesaid judgment and in our view the issue in the case of **Amardeep Singh** (supra) is totally distinct from the present case as in the said case, the petitioner was declared medically unfit on account of Varicose Vein Rt. which had been corrected by surgical procedure. However, in the case in hand, the issue is regarding tattoo on the right forearm of the respondent. Thus, there is clear distinction between the facts and circumstances of the case relied upon by learned counsel for the petitioners.

8. According to us, learned Tribunal has correctly relied upon the judgment of **Deepak Yadav** (supra) as the same was also regarding a tattoo. Thus, we hereby conclude that the case in hand is even on better footing than the case of **Deepak Yadav** (supra).

9. 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 of selected candidates has been commenced only from 01.07.2024. Accordingly, the petitioners are directed to allow the respondent to join the second batch for the training within a week from the receipt of this order.



2024:DHC:6939-DB



10. It is made clear that if the petitioners face any difficulty in allowing the respondent to join the second batch for training, the petitioners shall allow him to join the next batch for training which is scheduled to be commenced from the month of November, 2024. It is further made clear that seniority of the respondent shall be rendered from the batch which is already undergoing training i.e., commenced from 01.07.2024.

11. 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 applications.

(SURESH KUMAR KAIT)
JUDGE

(GIRISH KATHPALIA)
JUDGE

SEPTEMBER 9, 2024/ ry

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