



2024:DHC:5356-DB



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

***Date of Decision: 19.07.2024***

+ W.P.(C) 5806/2012

SACHIN KUMAR

.....Petitioner

Through: Mr. Anuj Aggarwal, Mr. Avinash  
Kumar & Mr. Pradeep, Advs.

versus

CENTRAL RESERVE POLICE FORCE THROUGH UNION OF  
INDIA

.....Respondent

Through: Ms. Manisha Aggarwal Narain,  
CGSC with Mr. Sandeep Singh  
Somaria & Mr. Akhil Gupta, Advs.

**CORAM:**

**HON'BLE MS. JUSTICE REKHA PALLI**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

## **J U D G M E N T**

### **REKHA PALLI, J (ORAL)**

1. The petitioner, who was selected pursuant to the selection process initiated in November, 2009 by the Central Reserve Police Force (CRPF) for appointment to the post of Constable (GD) under the Sports Quota but was denied appointment due to not meeting the physical measurement criteria, has approached this Court under Article 226 of the Constitution of India seeking the following reliefs:

(i) *“Issue an appropriate writ, order or direction thereby directing the respondent to declare the result of the*



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*petitioner for the post of Constable to which the petitioner had applied pursuant to the advertisement dated 11.11.2009;*

- (ii) Issue an appropriate writ, order or direction, thereby directing the respondent to grant the relaxation/condonation in the Recruitment Rules to the petitioner for recruitment in the post of Constable and after granting the said relaxation, appoint the petitioner to the post of Constable and pay him all consequential benefits thereof;*
- (iii) Pass any other appropriate writ, order or direction as this Hon'ble Court may deem fit and appropriate in the facts and circumstances of the present case and in the interest of justice, in favour of the Petitioner."*

2. The relevant facts for adjudication of the present petition, as emerging from the record, are that an advertisement was issued by the respondents on 11.11.2009 inviting applications for appointment against a number of posts, including 214 posts of Constable (GD) (male) and 12 posts of Constable (GD) (Female), in the CRPF under the Sports Quota. The petitioner applied in the Sports category in the discipline of 'WUSHU' and emerged successful in the selection process. However, it transpired that he was neither meeting the height criteria nor the chest measurement criteria and required a relaxation of 5.3 cm in height and 2 cm in respect of the chest measurement. Since similar relaxation was required by a number of other candidates who were selected under the sports quota both for Group B and Group C posts, the respondent no.1, CRPF, submitted a proposal to the respondent no.2, Ministry of Home Affairs, seeking relaxation in height and chest criteria for 184 selected candidates. The respondent no.2, upon realising that relaxation was being sought qua candidates both for Group B as also for Group C



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posts, returned the proposal on the ground that no relaxation could be granted for Group B posts and therefore, respondent no.1 was given the option to submit a separate proposal only qua Group C posts. The respondent no.1, however, instead of sending a fresh proposal for relaxation qua Group C posts, decided to recall its recommendations in respect of 184 candidates who required relaxation, which included Constables, Sub Inspectors and Inspectors. Consequently, the petitioner was not appointed and in these circumstances, has approached this Court by way of present petition. We may note that the petitioner had earlier preferred two writ petitions pertaining to his same grievance which petitions were withdrawn, with liberty to file a fresh petition.

3. Learned counsel for the petitioner submits that once the respondent no.1 had included the name of the petitioner in the list of the candidates recommended to be appointed as Constable (GD), a Group C post for which relaxation was as per Rules sought from respondent no.2, the respondent no. 1 could not have cancelled its proposal or recalled its own recommendations. He further submits that a number of unfilled vacancies of Constable (GD) were still available and since the respondents have been, as a matter of practice, granting relaxation to similarly placed candidates, there was no reason as to why the respondents should not be directed to appoint the petitioner after granting him the necessary relaxation.

4. On the other hand, Ms. Manisha Aggarwal Narain, learned counsel for the respondent seeks dismissal of the writ petition. She contends that merely because the petitioner's name was included in the list of candidates who were found fit for appointment subject to grant of relaxation by the



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MHA, which relaxation was admittedly never granted, he cannot claim that he has a right to appointment. In the present case, the petitioner, she submits was never finally selected as his selection was only subject to relaxation by respondent no.2, which relaxation was never granted. Further the respondents' decision, not to resubmit the file to respondent no.2 for seeking relaxation for only Group C candidates was a bonafide decision taken after examining the entire factual matrix. In support of her plea that a candidate whose name is placed in the list of selected candidates has no vested right to claim appointment if the prospective employer takes a considered decision not to make any appointments against the select list, she places reliance on ***Employees State Insurance Corporation vs. Dr. Vinay Kumar & Ors.: 2022 SCC OnLine SC 699.***

5. Having considered the submissions of learned counsel for the parties and perused the record, we may begin by noting the settled legal position that even a selected candidate does not acquire any right to appointment to the posts, as the State cannot be impelled to provide appointment to candidates merely because they are placed in the select list. No doubt, this does not imply that the State can act in an arbitrary manner in taking a decision to fill up the vacancies advertised by it.

6. In this regard, it may be pertinent to note that in ***Employees State Insurance Company (supra)***, the Hon'ble Apex Court has reiterated the well settled principle that “*even the inclusion of a candidate in the select list may not clothe the candidate with a legal right to insist that recruitment process be carried to its logical end.*”

7. In the present case, it is not disputed that though the petitioner was



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part of the list of candidates whose name was recommended by the respondent no.1 for relaxation to respondent no.2, yet, the recruitment process had not concluded. Needless to state, the selection process for recruitment of Constables, the post for which the petitioner had applied, involved various phases of recruitment process. Though the petitioner may have successfully cleared some of the stages of the recruitment process, the same was still inchoate and therefore, he had no indefeasible right to claim appointment. The petitioner's final selection was subject to relaxation of eligibility criteria for physical assessment i.e. of 5.3 cm in height and 2 cm in the chest measurement by respondent no. 2, which relaxation was admittedly never granted.

8. We also do not find any merit in the petitioner's plea that because unfilled vacancies of Constable (GD) are still available, the respondents ought to be directed to grant him the necessary relaxation because he was a meritorious sports person. Once the respondents have taken a considered decision not to grant relaxation to any of the candidates selected in the 2009 recruitment process, which decision has not even been alleged to be malafide, we find no reason to direct the respondents to appoint the petitioner after granting him relaxation.

9. In the light of the aforesaid, despite sympathising with the petitioner who has been waiting for the last 12 years with a hope that he will be appointed under the sports quota, we are unable to grant him any relief. We, however, grant liberty to the petitioner to apply for any fresh recruitment process for the post of Constable (GD) in CRPF and seek age relaxation for the period during which the present petition remained pending before this



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Court. We are hopeful that in case the petitioner seeks any such relaxation, the respondents will consider his request sympathetically.

10. The writ petition is dismissed with the aforesaid observations.

**(REKHA PALLI)**  
**JUDGE**

**(SHALINDER KAUR)**  
**JUDGE**

**JULY 19, 2024**

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