

In the High Court at Calcutta

Constitutional Writ Jurisdiction

Appellate Side

Judgment (2)

AB

Item No. 23

Present :

The Hon'ble Justice Aniruddha Roy

WPA 22264 of 2025

Bivash Ghosh & Ors.

Vs.

Union of India & Ors.

For the Petitioners : Mr. Debasish Kundu, Advocate
Mr. Sayan Mukherjee, Advocate
Ms. Doyel Dey, Advocate
Mr. Bidan Modak, Advocate
Ms. Arpita Kundu, Advocate

For Union of India : Mr. Indrajit Dasgupta, Advocate
Mr. Tapan Bhanja, Advocate

Heard on : September 25, 2025

Judgment on : September 25, 2025

Aniruddha Roy, J.:

1. Mr. Debasish Kundu, learned counsel appears for the petitioners.
2. Mr. Tapan Bhanja, learned counsel appears for the Union of India.
3. The instant writ petition has been filed by the petitioners seeking appointment to the post of constable (GD) in the Central Armed Police Force under the Selection Process of **2025**, by permitting the petitioners to be present before the appellate authority for re-measurement of their

height, being aggrieved by the decision of the PST Board, ***annexure P-4 at pages 44 to 67*** to the writ petition. The PST Board has assessed the height of the petitioners to be less than ***169.4 cms.*** whereas they claim that their actual height is ***170 cms.*** as measured by the PST Board while the petitioners were aspirants in the previous selection process, ***annexure P-6 at pages 87 to 99*** to the writ petition. The cut off is ***170 cm.*** as fixed by the selection board.

4. The order of rejection by the PST Board permits the candidates to file an appeal before the appellate authority on the same day through the presiding officer.
5. The petitioners preferred the appeal through electronic mail (e-mail) subsequently thereafter. The petitioners did not prefer the appeal on the same day and the reason being that there was a large gathering of candidates and the petitioners could not approach the presiding officer to forward their appeal petitions. The grounds are mentioned in the writ petition.
6. The appeals are stated to be pending. Though it may be true that the petitioners did not file the appeals before the appellate authority on the same day.
7. The reasons for not preferring the appeals shown by the petitioners, prima facie, appears to be bona fide. The reason for which the petitioners could not prefer the appeal within the time stipulated, was beyond the control of

the petitioners, as it prima facie appears to this court. In any event, an appeal being a substantive right cannot be denied merely on procedural irregularity, that too, which appears to be beyond the control of the petitioners.

8. Learned counsel for the petitioners, in support of their contention submits that, under the similar and identical fact situation by a judgment dated **July 4, 2025** the Hon'ble Division Bench ***In the matter of: Koushik Pal Vs. Union of India in MAT 36 of 2025*** had allowed the candidates to prefer appeal beyond the time and directed the competent authority to consider the appeal on merit and in accordance with law.
9. The Hon'ble Division Bench ***In the matter of: Koushik Pal (supra)*** has observed as under:

'Therefore, we dispose of this appeal by directing the appellant to submit a representation to the competent authority, namely, 6th respondent and the appellant is directed to enclose copy of the appeal memorandum and any other documents by which he claims that his height is more than 170 cms. along with the copy of this order and on receipt of the same, the competent authority shall consider the appeal petition on merits and in accordance with law within a period of three months from the date on which the representation is submitted. The decision that shall be taken by the competent authority shall be communicated to the appellant by registered post/speed post. It is made clear that this court has not gone into the merits of the matter and it is

for the appellate authority to take a decision.'

10. In view of the forgoing reasons and discussions, this court is of the considered view that, the petitioners may be granted an opportunity to prefer appeals and have a reasoned decision on merit in accordance with law.
11. In view of the above, the petitioners shall submit representations before the appellate authority being the jurisdictional appellate authority by enclosing the appeals memorandum and all other necessary documents by which they claim that their height is more than **170 cms.** along with copy of today's order and upon receipt of the same, the competent authority shall consider the appeals on merits but strictly in accordance with law, within a period of **three weeks** from the date on which the representations shall be submitted. As it is submitted on behalf of the petitioners that after the said PST is over, if the candidates are successful, they have to face the detail medical examination before the medical board constituted by the selection committee and the said medical test is likely to commence within a short while, the above direction is made.
12. The appellate authority then shall communicate its reasoned decision to the appellant positively within **two weeks** from the date of the said reasoned decision to be taken by the appellate authority by registered post/speed post.

13. It is made clear that, this court has not gone into the merits of the matter and it is for the appellate authority to take its independent decision in accordance with law.
14. Accordingly, this writ petition **WPA 22264 of 2025**, stands ***disposed of***, without any order as to costs.

(Aniruddha Roy, J.)