

In the High Court at Calcutta

Constitutional Writ Jurisdiction

Appellate Side

Judgment (2)

AB

Item No. 40

Present :

The Hon'ble Justice Aniruddha Roy

WPA 22716 of 2025

Mominul Islam Shaikh

Vs.

Union of India & Ors.

For the Petitioners : Mr. Siddhartha Sankar Mandal, Adv.
Ms. Sharmistha Dhar, Adv.
Ms. Arunima Das Sharma, Adv.

For Respondents : Mr. Indrajit Dasgupta, Advocate
Mr. Tapan Bhanja, Advocate

Heard on : September 26, 2025

Judgment on : September 26, 2025

Aniruddha Roy, J.:

1. Mr. Siddhartha Sankar Mandal, learned counsel appears for the petitioner.
2. Mr. Indrajit Dasgupta, learned counsel appears for the respondents.
3. The instant writ petition has been filed by the petitioner seeking appointment to the post of constable (GD) in the Central Armed Police Force under the Selection Process of **2025**, by permitting the petitioner to be present before the appellate authority for re-measurement of their

height, being aggrieved by the decision of the PST Board, **annexure P-1 at pages 18** to the writ petition. The PST Board has assessed the height of the petitioner to be **168.8 cms.** whereas he claims that his actual height is **170.5 cms.** The cut off is **170 cm.** as fixed by the selection board.

4. The order of rejection dated **August 23, 2025** 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 petitioner preferred the appeal through electronic mail (e-mail) on **September 17, 2025**. The petitioner did not prefer the appeal on the same day and the reason being that there was a large gathering of candidates and the petitioner could not approach the presiding officer to forward his appeal petition. The grounds are mentioned in the writ petition.
6. The appeal is stated to be pending. Though it may be true that the petitioner did not file the appeals before the appellate authority on the same day.
7. The reasons for not preferring the appeals shown by the petitioner, prima facie, appears to be bona fide. The reason for which the petitioner could not prefer the appeal within the time stipulated, was beyond the control of the petitioner, 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 petitioner.

8. Learned counsel for the petitioner, 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 petitioner may be granted an opportunity to

prefer appeal and have a reasoned decision on merit in accordance with law.

11. In view of the above, the petitioner shall submit representation before the appellate authority being the jurisdictional appellate authority by enclosing the appeals memorandum and all other necessary documents by which they claim that his 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 representation shall be submitted. As it is submitted on behalf of the petitioner that after the said PST is over, if the candidate is successful, he/she shall 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 22716 of 2025**, stands ***disposed of***, without any order as to costs.

(Aniruddha Roy, J.)