

2025:PHHC:017199



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(207)

**CWP-14735-2018 (O&M)
Decided on: 04.02.2025**

Yogesh

.....Petitioner (s)

Versus

Union of India & others

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE VINOD S.BHARDWAJ

Present:- Mr.Sunil Kumar Nehra, Mr.Pankaj Mittal, Advocates,
for the petitioner.

Mr.Sudhir Nar, Sr.Panel Counsel, for respondents-UOI.

VINOD S.BHARDWAJ, J. (Oral) :

1. Challenge in the present writ petition is to the rejection slip dated 30.01.2018 (Annexure P-3) whereby petitioner has been rejected in the medical examination and to the order dated 09.05.2018 (Annexure P-4) vide which the appeal of the petitioner for re-medical examination has been rejected.

2. Learned Counsel appearing for the petitioner contends that father of the petitioner who was serving in the Indo Tibetan Border Police Force (hereinafter referred to as 'ITBP') had expired while on duty. The petitioner, thereafter, applied for being given compassionate appointment on the basis of his qualification. He received a call letter dated 10.11.2017 from the respondents wherein it was mentioned that for appointment on compassionate basis, examination for the post of Head Constable (CM)

would be held on 11.12.2017. The petitioner appeared in the said

recruitment process and was declared successful. His medical examination was conducted and he was declared unfit in the said medical examination by recording the following reason for his rejection:

“Distance (Rt. Eye 6/9, Lt. Eye 6/12) : wax both ear and Phinosis”

3. Aggrieved by the aforesaid rejection slip and the reasons given thereunder, petitioner filed an appeal for medical re-examination which was again declined by the Commandant (Recruitment) on 09.05.2018 by recording as under:

“Post lasik eye (both)”

4. Learned Counsel for the petitioner contends that the petitioner was declared unfit during the medical examination on the ground of ‘distant vision, wax in both ears and phinosis’ whereas while dismissing the appeal, it was noticed that the petitioner suffered from ‘Post lasik eye (both)’ and was declared unfit. Hence, the reasons given for rejection of the petitioner are at variance and that on account of getting the eye operation done through laser cannot be an infirmity and it only rectified the infirmity and the same would, in no manner, hamper his functions as a Head Constable. Reliance is placed upon the judgment of the Madras High Court in **M.E.Mohamed Musaf Raseen Vs. The State of Tamil Nadu & others, 2019 (4) SLR 468**, judgments of Delhi High Court in **Ms.Sreeja K. Vs. Union of India & another**, WP(C) 3196/2012 decided on 29.05.2012 and in **Union of India & another Vs. Saikat Roy**, W.P.(C)No.508 of 2014, decided on 24.01.2024 as well as the Division Bench judgment of this Court in **CWP-10395-2024** titled **Inspector General of Police, Union Territory, Chandigarh & others Vs. Central**

Administrative Tribunal, Chandigarh Bench & another, decided on 23.05.2024.

5. From the reading of all the above-said judgments, it can be deciphered that the authorities had taken a decision declining appointment to the candidature of the persons who had undergone lasik surgery and the said medical impairment had been declared insufficient to hold a person ineligible for appointment.

6. Counsel for the respondents, on the other hand, contends that the writ petition is liable to be dismissed on account of the petitioner having been declared disqualified in the medical examination on account of distant vision and other deficiencies. Petitioner preferred an appeal and even there, he was not found medically fit to discharge his functions/duties as a part of disciplined force. He contends that petitioner had originally preferred for the post of Constable on compassionate basis but later, he submitted his option for absorption to the post of Head Constable (Telecommunication) in place of Constable (General Duty) which was approved by the competent authority and he was allowed to appear in PST/PET, a written examination for the post of Head Constable (Telecommunication) as well as in the medical examination. The medical examination was thereafter carried out as per the guidelines of Gazetted Officers and Non-Gazetted Officers in CAPFs and Assam Rifles dated 20.05.2015, wherein, he was declared unfit. The subsequent appeal has also been dismissed. The cause of medical unfitness of the petitioner was duly conveyed by the respondents and that any visual correction of any kind is impermissible during recruitment of Group B and Group C posts in

prescribes the visual standards for appointment in Subordinate Services and Other Ranks in CAPFs etc. as per which visual correction of any kind is not permitted even by glasses.

7. Learned Counsel for the State further contends that the variance in the two reasons given by the Medical Examination & Re-Examination Board can be on account of petitioner having undergone lasik eye surgery which was carried out for correction for the visual defect. The same would not mean that the reason for declaring the petitioner unfit by the Medical Examination Board was other than as pointed out by the Medical Re-Examination Board. He submits that the visual standards prescribed are the mandatory requirements and have to be fulfilled by each entrant and since the petitioner did not fulfill the required norms prescribed for appointment/recruitment against the said post, hence he cannot claim such a post.

8. I have heard Learned Counsel for the respective parties and with their assistance, have gone through the record.

9. It is not in dispute that the uniform standards notified on 20.05.2015 by the respondents are approved guidelines for medical examination for recruitment of Gazetted Officers/Non-Gazetted Officers and other ranks and specifically notified that any visual correction of any kind is not permitted even by glasses and since the petitioner had undergone the lasik eye treatment for his medical impairment, he was declared medically unfit in the medical re-examination conducted by the respondents.

10. Learned Counsel for the petitioner does not lay any challenge

respondents that has been so carved out but merely contends that the lasik eye surgery would not stand in the way of discharging the functions/duties by the petitioner as required.

11. The above-said argument cannot be accepted at this juncture once uniform standards/norms of fitness has already been prescribed in para-military forces, relaxation of such standards/norms would lower the fitness and the exigencies during combat process by the authorities. The petitioner has opted for appointment against the post of Head Constable wherein the requirement of training is mandatory and guidelines are prescribed even for discharging function in any manner and also in the event of emergency. It is also pointed out by Learned State Counsel that on account of lasik eye surgery, the defects such as glaring, spotting and also delusional vision may occur. He also contends that under the said circumstances, the necessity of prescribing the uniform standards acquires a mandatory character and relaxation of such standards cannot be done.

12. The judgments cited by Learned Counsel for the petitioner have also been examined by this Court and a perusal of the same would show that they are not in relation to the appointment on compassionate grounds in Para-Military/Armed Forces but they are in relation to Government service in civil employment and the works and standards of fitness prescribed are altogether different. Hence, the said judgments would not apply to the facts of the present case.

13. Learned Counsel for the State thus contends that it cannot be said that the reasons recorded by the respondents for rejection of case of the petitioner for appointment on compassionate grounds are

misconceived or ill-founded and the present writ petition, thus, deserves to be dismissed for the said relief.

14. However, proceeding further, this Court is also seized of the fact that petitioner has submitted an application for compassionate appointment due to penury hardships and difficulties faced by the family on account of demise of his father. Undisputedly, there are civil assignments/posts/employment in the ITBP. The respondents are, thus, directed to consider the suitability of the petitioner and offer him appointment for civil post where the requirement of aforesaid physical standards may not be necessary for discharging the official functions. Needful be done by the respondents within a period of 8 weeks from the receipt of certified copy of this order and if the petitioner is found eligible and he exercises an option for taking up such an assignment, necessary action be taken within a further period of 3 weeks.

15. With the above-said directions, the present writ petition stands disposed of. All pending application(s) also stand disposed of.

04.02.2025
Sailesh

(VINOD S.BHARDWAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No