APHC010190742023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3573]**
(Special Original Jurisdiction)

WEDNESDAY, THE 28th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION NO: 9953/2023

Between:

1. GUDIVADA SRINU, S/O. GUDIVADA VARAHALABABU, CT/GD(RECT.) (PERSONAL NO. 13035006), AGED ABOUT 31 YEARS, ORIGINAL R/O. H.NO.3-28, JAGANNADHAPURAM, INDUGAPALLE, INDUGUPALLI, EAST GODAVARI, ANDHRA PRADESH - 533407 PRESENTLY POSTED AT OFFICE OF THE COMMANDANT,56TH BATTALLION,ITBP FORCE, MHA/GOVT.OF INDIA, VPO-PANDALPAKA, MANDAL-ANANDAPURAM, VISAKHAPATNAM, PIN CODE.530052

...PETITIONER

AND

1. THE UNION OF INDIA, THROUGH SECRETARY, MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW DELHI-3
2. THE DIRECTOR GENERAL, INDO-TIBETAN BORDER POLICE FORCE, BLOCK-2, CGO, COMPLEX, LODHI ROAD, NEW DELHI-3.
3. THE INSPECTOR GENERAL, HQ EASTERN ITBPOLICE, SHEELA SABHA MARG, NEAR RADIO STATION, HAZARAT GANI LUCKNOW, UTTAR PRADESH - 226001
4. THE DY INSPECTOR GENERAL, SHQ (PATNA), ITBPOLICE, SRIKRISHNAPURAM, LANE NO.15, NEAR RPS MORE, WEST BAILY ROAD, DANAPUR, DIST. PATNA - 801503
5. THE COMMANDANT, 56TH BATTALION, ITBP FORCE, MHA/GOVT.OF INDIA, VPO-PANDALPAKA, MANDAL-ANANDAPURAM, VISAKHAPATNAM, PIN CODE.530052

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, or Order, or Direction more particularly one in the nature of Mandamus declaring the impugned Termination Orders No. 56th

Bat/ITBP/Establish-2/NOTICE/2023-1384-91, dt.08-04-2023, issued by the 5th Respondent as per Rule 17 of ITBPF Rules,1994, under the averments that the Medical Board not agreeing with the opinion of Dr. B.K. Kundu, Rheumatologist, RML Hospital and declared the Petitioner unfit for Basic training, whereas, in the Medical review Proceedings dt.10-02-2023, the Medical Board agreed with the opinion of Dr. B.K. Kundu, Rheumatologist, RML Hospital and declared the petitioner fit for Basic Training, as being illegal, arbitrary and in violation of under Article 14, 16 and 21 of the Constitution of India, consequently to set-aside impugned Termination Orders No. 56th Bat/ITBP/Establish-2/NOTICE/2023-1384-91, dt.08-04-2023, of the Respondents and directing the Respondents to retain and continue the Petitioner into service as Constable/GD in 56th Battalion of Indo Tibetan Border Police Force and to pass

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all the further proceedings pursuant to the impugned Termination Orders No. 56th Bat/ITBP/Establish-2/NOTICE/2023-1384-91, dt.08-04-2023, issued by the 5th Respondent and to direct the Respondents to retain and continue the Petitioner into service as Constable/GD in 56th Battalion, Indo Tibetan Border Police Force, pending disposal of the Writ Petition and pass

Counsel for the Petitioner:

1. KRISHNAIAH CHEEDARLA

Counsel for the Respondent(S):

1. M UMA DEVI (CENTRAL GOVT COUNSEL)
2. HARINATH N (DEPUTY SOLICITOR GENERAL OF INDIA))

The Court made the following:

ORDER:

Writ Petition is filed for the following relief:

> *"pleased to issue a Writ or Order or Direction more particularly one in the nature of Mandamus declaring the impugned Termination Orders No.56th Bat/ITBP/Establish-2/ NOTICE/2023-1384-91, dt.08-04-2023, issued by the 5th Respondent, as per Rule 17 of ITBPF Rules, 1994, under the averments that the Medical Board not agreeing with the opinion of Dr. B. K. Kundu, Rheumatologist, RML Hospital and declared the Petitioner unfit for Basic training, whereas, in the Medical review Proceedings dt.10-02-2023, the Medical Board agreed with the opinion of Dr. B. K. Kundu, Rheumatologist, RML Hospital and declared the petitioner fit for Basic Training, as being illegal, arbitrary and in violation of under Article 14, 16 and 21 of the Constitution of India, consequently to set-aside impugned Termination Orders No.56th Bat/ITBP/Establish-2/NOTICE/2023-1384-91, dt.08-04-2023 of the Respondents and directing the Respondents to retain and continue the Petitioner into service as Constable/GD in 56th Battalion of Indo Tibetan Border Police Force and to pass"*

2. Heard Sri U.D. Jai Bhima Rao, learned counsel representing Sri Ch. Krishnaiah, learned counsel for the petitioner, Smt. M. Uma Devi, learned Central Government Counsel appearing for the respondents.

3. The grievance of the petitioner is that, in spite of opinion of Review Medical Board dated 10.02.2023, stating that individual is fit for basic training, which opinion was arrived at basing on opinion of Dr.B.K.Kundu, RML Hospital, Delhi, the case of the petitioner has not been considered for alternative employment.

4. Learned Central Government Counsel appearing for the respondents submits that the Medical Board has not accepted the opinion of Dr.B.K.Kundu, as it is only an individual opinion, whereas the proceedings dated 10.02.2023 contain the opinion of the Board of Doctors at Referral

Hospital, arrived at upon examination of the individual and consideration of the opinion of Dr.B.K.Kundu.

5. However, without going into the aspect of the opinion expressed by the Medical Board and also rejection of the candidature for alternative employment, this Court is of considered view that the respondent authorities may consider the case of the petitioner for any other employment, either on ministerial side or in any other suitable post, as per his eligibility and entitlement and also suitable for his health condition, as the petitioner has served the respondent-organization for more than ten years.

6. In view of the above, this Court deems it appropriate to permit the petitioner to make a representation to the respondents within a period of four weeks from the date of receipt of a copy of this order, along with the aforesaid Medical Board's opinion, to consider his case for any other alternative suitable employment as per his eligibility, entitlement and suitability. The respondents may consider and pass appropriate orders in accordance with the Rules in vogue within a period of two months therefrom.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE BALAJI MEDAMALLI

Date : 28-10-2026
BMS