

Harikesh Kumar Vs. The Union of India Through the Inspector General Central Industrial Security Force and Ors

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Court : Jharkhand

Decided On : Jun-27-2016

Appellant : Harikesh Kumar

Respondent : The Union of India Through the Inspector General Central Industrial Security Force and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No.6198 of 2014
Harikesh Kumar Petitioner Versus 1. The Union of India through the Inspector General, Central Industrial Security Force, CISF Office Complex, Eastern Sector Headquarters, New Patliputra Colony, Patna.

2. The Deputy Inspector General, CISF, Eastern Sector Headquarters, New Patliputra Colony, Patna.

3. The Deputy Inspector General, CRPF, Dhurwa, Ranchi.

4. The Medical Officer, CISF, Second Reserve Battalion, Dhurwa, Ranchi.

5. The Review Medical Board through the Presiding Officer, CISF, RTC, Bhilai, District Durg (Chhatisgarh). . Respondents CORAM: HONBLE MR. JUSTICE H.C. MISHRA For the Petitioner : Mr. Rahul Kumar Advocate For the Respondents- : Mr. Rajiv Sinha, Advocate Union of India : Mr. B.K. Prasad ----- 2/27.06.2016

Heard learned counsel for the petitioner and learned counsel for the Respondents Union of India.

2. The petitioner is aggrieved by the fact that he had undergone the recruitment process for the post of Constable Driver in Central Industrial Security Force (CISF). The selection process was undertaken at Ranchi, in which, the petitioner was selected and he was ultimately sent for examination for medical fitness. The petitioner was found unfit for the post of Constable Driver during medical examination, due to partial amputation of terminal phalanx of his right middle finger. The candidates' copy of the medical fitness certificate issued by the Medical Officer of CISF has been brought on record as Annexure-3 to the writ application. As the said order is appealable, the petitioner preferred an Appeal before the CISF Headquarters, Patna, along with the Medical Certificate of an Ortho Surgeon, in which, it is stated that he has good grip and can perform all the functions of the hand, and that the partial amputation of terminal phalanx of right middle finger shall not interfere with the work of the petitioner as Constable Driver. The review was also done by the Medical Board and the Review Medical Board also found the petitioner medically unfit due to said partial amputation of terminal phalanx of right middle finger, which has been brought on record as Annexure-6 to the writ application. -2- 3. The advertisement issued for the post of Constable Driver published by the CISF has been brought on record as Annexure 1/ 1 of the writ application, in which the required Medical Standard of the candidates is also mentioned. According to this advertisement, the candidates must not have knock-knees, flat foot, varicose vein or squint in eyes and any other obvious deformities. They must be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties.

4. It is submitted by the learned counsel for the petitioner that only a small part of the tip of the middle right finger of the petitioner is amputated, which shall not interfere with the efficient performance of the duties of the petitioner and this fact has also been certified by the Ortho Surgeon stating that the petitioner has good grip in his hand and can also perform all functions of the hand. Learned counsel accordingly, submitted that the petitioner has been illegally found medically unfit for the post of Constable Driver in the CISF.

5. Learned counsel for the Union of India on the other hand has opposed and prayer and has pointed out from the counter affidavit that in the medical examination, the petitioner was found medically unfit due to partial amputation of terminal phalanx of right middle finger, which is also confirmed by the Medical Board. Learned counsel accordingly, submitted that in view of the medical unfitness found by the Medical Board, the petitioner cannot be appointed as Constable Driver in CISF. Learned counsel has also pointed out that the petitioner had earlier moved before the Allahabad High Court filing writ application No.15895 of 2014, which was not pressed by the petitioner. To this, it is submitted by the learned counsel for the petitioner, that the petitioner being a resident of Aligarh, had filed the writ application in Allahabad High Court, but as no cause of action had arisen there, the petitioner had not pressed the application in the Allahabad High Court.

6. The documents of the Medical Board have also been brought on record in the counter affidavit filed by the Union of India, in which the only reason for medical unfitness of the petitioner is mentioned as partial amputation of terminal phalanx of right middle finger. In none of the documents brought on record, it is -3- stated that this partial amputation is likely to interfere in efficient performance of the duties of the petitioner, which is one of the conditions prescribed in the advertisement contained in Annexure-1 / 1 of the writ application. In that view of the matter, I am prima facie of the opinion that even if the tip of the right middle finger of the petitioner was amputated for some reason, that cannot be a ground for finding him medically unfit for the post of Constable Driver. The opinion of the Ortho Surgeon, which is contained in Annexure-4 to the writ application also shows that the petitioner has good grip in his hand and this problem is not going to interfere in his work as Constable Driver in CISF. However, the final decision whether the amputation of terminal phalanx of right middle finger of the petitioner is likely to interfere with the efficient performance of his duties as Constable Driver in CISF, is required to be taken by the respondent authorities, which shall be final.

7. In the facts of this case, particularly in view of the fact that in none of the medical certificates, it is stated that the partial amputation of terminal phalanx of right middle finger of the petitioner is likely to interfere with the efficient

performance of the duties of Constable Driver, the respondents authorities are directed to consider the case of the petitioner afresh, in view of the medical standards for selection of the candidates, as laid down in the advertisement issued by the CISF for selection to the post of Constable Drivers, as contained in Annexure- 1 /1 to the writ application. If it is found that the said infirmity shall not interfere with the efficient performance of duties, the petitioner shall be appointed as Constable Driver in the CISF. Respondent authorities are directed to take the final decision afresh in this regard by passing a reasoned order, within a period of four months from today.

8. This writ application is accordingly, allowed with the direction as above. (H. C. Mishra, J) R.Kumar

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