

State of Rajasthan and ors. Vs. Sandeep

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Court : Rajasthan

Decided On : Jul-29-2008

Reported in : RLW2009(1)Raj126

Judge : Narayan Roy, C.J. and; Mohammad Rafiq, J.

Appellant : State of Rajasthan and ors.

Respondent : Sandeep

Disposition : Appeal dismissed

Judgement :

Mohammad Rafiq, J.

1. This appeal is directed against the judgment of the learned Single Judge dated 29.5.208 whereby the writ petition filed by the respondent was allowed.

2. The respondent was denied appointment on the post of Sub-Inspector in the Telecommunication Wing of the Police Department; selection process for which was initiated pursuant to notification dated 9.3.2007 on the ground that he did not have the requisite measurement of deflated and inflated chest in terms of Rule 14(2) of the Rajasthan Police Subordinate Service Rules, 1989. The learned Single Judge of this Court vide order dated 21.5.2008 required the petitioner to appear before Superintendent, SMS Hospital, Jaipur who was directed to

constitute a medical board; pursuant to which a medical board headed by Professor & Head of Department with two senior doctors drawn from Departments of Medico-Jurist Orthopedics and Physical Medicine & RRC examined him, and according to which the measure of deflated chest of the respondent was found to be 82 cms whereas inflated chest was found to be 86 cms.

3. Mr. Mahesh Chand Gupta, learned Additional Government Counsel assailed the judgment on the ground that when the appellants in the process of recruitment found the measurement of deflated chest of the respondent to be only 75 cms, the report of the medical board cannot be believed. Secondly/he argued that according to Rule 14(2), there has to be minimum difference of 5 cms between the measurement of deflated and inflated chest.

4. Rule 14(2) of the Rules of 1989 is reproduced as under:

14. Physical Fitness:

(2) Except in case of women candidates, no candidate, who is less than 168 cms., in height and whose deflated chest measurement is less than 81 cms and inflated less than 86 cms shall be deemed to be physically fit.

5. A perusal of Rule 14(2) (supra) merely provides that no candidate, who is less than 168 cms, in height and whose deflated chest measurement is less than 81 cms and inflated less than 86 cms, shall be deemed to be physically fit. The respondent qualifies both for deflated and inflated chest measurement where for being 82 cms and 86 cms respectively.

6. In our view, the appellants have wrongly drawn an inference from the difference of measurement of the deflated and inflated chest even in the Rules 14(2) (supra) that there has to be necessarily difference of 5 cms between the two. No such intention of the rule making authority is evident from the true construction of the rule.

7. We are also not inclined to countenance the argument that the measurement indicated by the medical board consisting of three senior doctors in the rank of professor should be ignored in preference to the measurement given by the

recruiting team of the appellants We, therefore, do not find any merit in this appeal, which is accordingly dismissed.

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