

(2013) 08 P&H CK 0630

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 1676 of 2012

Rajesh Kumar

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision: Aug. 2, 2013

Hon'ble Judges: Rajiv Narain Raina, J

Bench: Single Bench

Advocate: J.S. Dahiya, for the Appellant; Jaspal Kaur Gurna, for the Respondent

Final Decision: Allowed

Judgement

Rajiv Narain Raina, J.

The petitioner was certified medically unfit for consideration for appointment to the post of constable (GD) in the Para Military Forces. In the medical certificate obtained by the petitioner from Safdarjung Hospital, New Delhi, which was submitted by him in terms of the advertisement, he was declared as not suffering from a condition called "Winging of (Rt) Scapula". The reason for rejection of the petitioner is on medical grounds. The petitioner appealed for re-examination by Review Medical Board on 1.10.2011. The appeal was allowed. The Issuing Authority in the respondent department issued and admit card for appearing in review medical examination signed on 5.10.2011 (P-6 at page 33 of the paper book). The reporting time was 0730 Hqrs. on 23.10.2011 at the Training Centre, SSB, Sapri Tehsil Dehra, Distt. Kangra (HP) Tele/FAX-1970-223389. Despite the fact that the admit card was signed on 5.10.2011 and was dispatched to the petitioner on 11.10.2010 and was received by him on 25.10.2011 when the date fixed for the review medical examined was over. The petitioner was not medically examined thereafter.

2. Before approaching this Court, the petitioner had filed a writ petition before the Delhi High Court which was dismissed for want of territorial jurisdiction but in the written statement filed by the respondents before the Delhi High Court, reliance was placed on instructions dated 6.7.2011 addressed to the various Staff Selection Commissions in which a decision was taken in para 3 that call letters may be issued

to the candidates at the earliest and in any case 15 days prior to the date of medical examination. Candidates were required to be called for such examination to the centre nearest to the place of their residences to the extent possible. The petitioner is resident of Village Nahri District Sonapat which adjoins New Delhi. The Centre chosen for the petitioner was in Himachal Pradesh in District Kangra.

3. Learned counsel for the petitioner submits that the Government once having laid down guidelines should be called upon to adhere to them. If call letters are to be issued 15 days prior to date of medical examination that provision would also in my view apply to review medical examination as well which in substance is no more than medical examination by itself.

4. Learned counsel for the respondents has not been able to dispute that the admit card/letter was signed on 5.10.2011. If it had been posted immediately, it would most certainly have reached in time to prepare the petitioner to present himself for medical examination.

5. Be that as it may, even assuming that there was postal delays in the matter of this kind in which public employment is sought, it would serve substantial justice that the petitioner should now be put to review medical examination to ascertain whether he is medically fit to hold the post of Constable (GD). In the result, this writ petition is allowed and a direction is issued to the respondent to convene review medical examination at a place of mutual convenience in terms of para 3 of the executive instructions/guidelines dated 6.7.2011. The petitioner be informed through registered letter and at the petitioner's e-mail address well in advance informing of time, date and venue where the medical examination is to be conducted. The petitioner would immediately through writing inform the respondents of his co-ordinates to facilitate the respondents to correspond with him.