



2025:DHC:8424-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3998/2021 & CM APPL. 12074/2021**
SURESH SETHIPetitioner

Through: Mr. Surajit Bhaduri, Mr.
Nabab Singh, Advs.

Versus

UNION OF INDIA & ORSRespondents

Through: Mr. Anshuman, SPC with Mr.
Devender Singh, DC ITBP
Mr. Ajay Pal Law Officer CRPF, Insp.
Athurv CRPF, Mr. Ramniwas Yadav CRPF

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% **19.09.2025**

C. HARI SHANKAR, J.

1. The petitioner applied for recruitment as Constable (GD) in the Central Armed Police Forces¹. He qualified the Physical Standard Test (PST) and Physical Efficiency Test (PET) which were conducted on 8 June 2015. He also qualified in the written examination for the post conducted on 4 October 2015. The petitioner was medically examined on 11 May 2016 and 13 May 2016 and was declared unfit for recruitment on the ground that he was suffering from deficiency in colour vision which was of the standard "CP-IV". Despite this finding, the petitioner was appointed as Constable (GD) on 17 April 2017.

¹ "CAPFs", hereinafter



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2. After this appointment, the petitioner was again medically examined on 23 April 2018 and found to be unfit on account of his colour vision standard being CP-IV.
3. The petitioner was thereafter issued two show cause notices on 23 April 2018 and 9 August 2019, calling upon the petitioner to show cause as to why his services be not terminated on the ground of unsuitability as his colour vision was of CP-IV grade.
4. The petitioner filed WP (C) 9852/2019 before this Court, seeking quashing of the show cause notice dated 9 August 2019. Pursuant to orders passed by this Court on 15 October 2019, the petitioner was re-examined in the Army Hospital (R & R), New Delhi on 9 November 2019 and once again declared unfit on the ground that he was suffering from defective colour vision of CP-IV grade.
5. In these circumstances, WP (C) 9852/2019 was dismissed by this Court *vide* order dated 2 December 2019.
6. Following this, by orders dated 5 December 2019 and 6 December 2019, the services of the petitioner were terminated.
7. The petitioner thereafter filed Review Petition 68/2020, seeking review of the judgment dated 2 December 2019 in WP (C) 9852/2019. In the review petition, the petitioner submitted that the earlier guidelines contained in notification dated 27 February 2013, issued by



the Ministry of Home Affairs², had been superseded by the Guidelines for Recruitment, Medical Examination in Central Armed Police Forces and Assam Rifles, 2015³. In an Annexure dated 18 May 2015 to the said guidelines, the following clause is to be found:

“The issue regarding the visual standards to be set for the CAPF and Assam Rif personnel had been under consideration in this Ministry particularly with regard to cases of Colour Blindness.

e. There are certain branches like law, pioneer, education, animal transport, barber, washermen, water carrier, cook, safai karamchari, gardner, cobbler, carpenter, electrician, etc. which can do with a colour perception standard of CP-IV as their job profile does not involve any activity that requires acute identification of colours from great distances. In rarest of rare cases they may be called upon to perform such duties, but the criteria for the whole induction cannot be made stringent in anticipation of a rarer eventuality which may never occur.”

8. The aforesaid review petition was disposed of by a Coordinate Division Bench of this Court by the following order dated 14 February 2020, which reads, thus:

“2. It is clarified that notwithstanding the dismissal of the Petitioner's writ petition by this Court, it will be open to him to make a representation to the Respondents in terms of the extant guidelines for redeployment in any other post.

3. If such representation if made within four weeks, it will be considered on its merits and a decision thereon will be taken by the Respondents within a further period of 12 weeks thereafter. The decision be communicated to the Petitioner within two weeks of it being taken.

4. The Review Petition is disposed of in the above terms.”

² “2013 Guidelines”, hereinafter

³ “2015 Guidelines”, hereinafter



9. In pursuance of the liberty granted by the aforesaid order, the petitioner addressed a representation dated 2 March 2020 to the respondents, in which he prayed that his suitability for posting in some other department be considered in accordance with the 2015 Guidelines.

10. The order, after noting the aforesaid sequence of events, concludes, thus:

“12. **AND WHEREAS**, Ex. Const(GD)(Recruit) Suresh Kumar Sethi has submitted a representation dated 02-03-2020 for re-deployment in any other post in ITBP Force in accordance with the order passed on dated 14-02-2020 by the Hon'ble Delhi High Court.

13. **AND WHEREAS**, representation dated 02-03-2020 of Ex. Const (GD) (Recruit) Suresh Kumar Sethi has been examined in details at Dte Gen ITBPF and Director(Medical), Dte Gen ITBP has opined that there is no provision to re-deploy or merged/appoint into any cadre of any person in the Force who having defective colour vision reiterating the instructions laid down on the subject issued by MHA vide Order No. F.No.-I-45024/01/2008-Pers.II Dated 27.02.2013 at para 1 (ii), which reproduced below :-

“Any person who has defective vision or is colour blind will not be recruited in future, if any person is wrongly recruited despite having defect in vision or despite being colour blind, he will be promptly removed from service as soon as the defect is noticed. The doctor who declared him fit will not be proceeded against in departmental proceedings for major penalty. The person who was wrongly recruited will not be allowed to continue to take advantage of this wrong act, and the Govt. cannot be bound by the wrong act of any of its functionaries.”

14. **AND WHEREAS**, on the directions of Hon'ble High Court order dated 14.2.2020, the undersigned being Respondent No.4 in the above matter, has examined the contention/facts of the



representation of Ex.Const (GD) (Recruit) Suresh Kumar Sethi in the light of opinion given by Director (Medical) Dte Gen ITBP and found that there is no provision for redeployment of person in Indo-Tibetan Border Police Force who having defective colour vision.

15. **THEREFORE**, the application/representation of No. 170090604 Ex. Const (GD)(Recruit) Suresh Kumar Sethi for redeployment in ITBP Force does not have any merit, hence, is hereby rejected being devoid of merits.”

11. Thereafter, a further order dated 16 July 2020 was passed by the respondent which may be reproduced, in *extenso*, as under:

“ORDER

WHEREAS, Review Writ Petition No. 68 of 2020 Suresh Kumar Sethi V/s UOI and others has been filed in the Hon'ble High Court of Delhi in which the petitioner i.e Suresh Kumar Sethi (Regtl No. 170090604) has requested to reinstate him in service on any tradesman post in ITBPF as per revised guidelines for recruitment medical examination 2015; and

2- **WHEREAS**, the Hon'ble High Court vide Order dated 14.02.2020 has disposed of the said writ petition with direction to the petitioner to submit his representation before the respondent in terms of the extant guidelines for redeployment in any other post. The Hon'ble Court further directed the respondent to consider the representation on its merit and to take the decision within 12 weeks from its receipts.

3- **WHEREAS**, the petitioner's has submitted his representation dated 02.03.2020 to this office which received on 30.06.2020 (Probably due to nationwide lockdown due to Covid-19) in which he requested to redeploy him on any tradesman post on the basis of revised guidelines 2015 for recruitment medical examination in CAPFs. The services of the petitioner has been terminated by removal from service in the light of MHA Order No. E.No-1-45024/1/2008-Pers-II dated 27th February 2013 as individual found unfit for service due to defective colour vision under category-IV. The extract of MHA ibid order is reiterated below:-

"Any person who has defective vision or is colour blind will not be recruited in future. If any person is wrongly recruited



*despite having defect in vision or despite being colour blind, he will be promptly removed from service as soon as the defect is noticed. The doctor who declared him fit will be proceeded against in Departmental Proceedings for major penalty. **The person who was wrongly recruited will not be allowed to continue to take advantage of this wrong act** and the Govt. cannot be bound by the wrong act of the any of its functionaries."*

4. **WHEREAS**, the revised guidelines for recruitment medical examination 2015 provided that CP-IV standard is permissible for various tradesman categories of jobs in CAPFs and ARs. It is pertinent to mention here that these guidelines are meant for recruitment purpose only and doesn't facilitate a person whose services have been terminated on account of defective colour vision/colour blindness to reinstate him in service. ***Apart from this, MHA vide their order dated 27th February 2013 has clarified that any person recruited on or after 18.05.2012, if found colour blind/defective colour vision even after recruitment shall promptly be boarded out of service.***

5. **AND WHEREAS**, the petition of the petitioner to reinstate him on any tradesman post in ITBPF on the basis of revised guidelines-2015 for recruitment medical examination has no merit. Further, the prescribed time limit of making a departmental appeal against such removal from service in perspective of Rule 28 of ITBPF Rules 1994 has also been lapsed.

6- Hence the representation of Sh. Suresh Kumar Sethi is examined in detail but rejected being devoid of merit in the light of MHA order no. E.No-1-45024/1/2008-Pers-II dated 27th February 2013.

7- The representation of Sh. Suresh Kumar Sethi is disposed off accordingly.

8- This issues with the approval of competent authority.

DIG (Estt)
Directorate General, ITBPF"

12. Aggrieved by the aforesaid decision, the petitioner has re-approached this Court by means of the present writ petition.

13. Mr. Surajit Bhaduri, learned Counsel for the petitioner submits



that the respondent has erroneously placed reliance on the erstwhile Policy Guidelines dated 27 February 2013 without considering the 2015 Guidelines, which were expressly subject matter of the Review Petition filed by the petitioner and in terms whereof the order dated 14 February 2020 had been passed by the co-ordinate Bench.

14. He submits that, as per Clause 4(e) of the Annexure to the 2015 Guidelines, reproduced *supra*, the petitioner could have been considered for being posted against one of the other departments in which such rigorous visual standards were not necessary and which could be manned by persons with CP-IV grade colour vision.

15. We find substance in Mr. Bhaduri's contention that the impugned orders dated 17 June 2020 and 16 July 2020 have not been passed in accordance with the directions issued by the Co-ordinate Bench in its order dated 14 February 2020 in Review Petition No. 68/2020.

16. The Division Bench, while passing the said order, was conscious of the fact that the petitioner had been terminated from service and that his writ petition had earlier been dismissed. Despite this, the Division Bench allowed the petitioner to apply for being appointed against some alternative suitable post in accordance with the 2015 Guidelines.

17. This order was never challenged by the respondent.



18. In that view of the matter, it was incumbent on the respondent to consider the petitioner's case in terms of Para 4(e) of the Annexure dated 18 May 2015 to the 2015 Guidelines. This has not been done in the order dated 17 June 2020. The petitioner appealed against the said order to the Directorate General (Establishment), who disposed of the appeal by order dated 16 July 2020.

19. The order dated 17 June 2020 was passed in accordance with the 2013 Guidelines.

20. Insofar as the appellate order dated 16 July 2020 is concerned, it has rejected the petitioner's case solely on the ground that as he had already been terminated, he could not get the benefit of the provision in the said guidelines under which persons would be considered for re-deployment against alternate posts.

21. Mr. Anshuman, learned SPC for the respondents has echoed this submission. He submits that the Policy Guidelines contained in the Annexure dated 18 May 2015 to the 2015 Guidelines apply only at the stage of recruitment and that, once the petitioner had been recruited and terminated, he could not get the benefit of the said guidelines.

22. We are unable to accept this submission for two reasons.

23. Firstly, the recruitment of the petitioner took place in 2017 much after the 2015 Guidelines had come into force. The petitioner



had already been diagnosed in 2015 as suffering from CP-IV grade colour blindness. Despite this, the respondents recruited him in 2017. At the time of his recruitment, therefore, the 2015 Guidelines and the Annexure dated 18 May 2015 were in force. The petitioner was, therefore, covered by the provisions of the said Annexure and the guidelines and was entitled to his case being considered on the basis thereof.

24. It is apparently for this reason that the Co-ordinate Division Bench of this Court passed the order that it did, in Review Petition 68/2020 on 14 February 2020.

25. The submission of Mr. Anshuman that the petitioner would not get the benefit of the 2015 Guidelines as they applied at the stage of recruitment cannot, therefore, operate against the petitioner.

26. Secondly, the respondent has not challenged the order dated 14 February 2020 passed by the coordinate Bench in Review Petition No. 68/2020. The view adopted by the Deputy Inspector General (Estt)⁴ in the appellate order dated 16 July 2020 would amount to setting at naught the relief that was given to the petitioner by the order dated 14 February 2020. This cannot be permitted, when the order itself was never challenged.

27. We, therefore, are of the opinion that the DIG was in error in rejecting the petitioner's case on the ground contained in the order

⁴ "DIG", hereinafter



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dated 16 July 2020.

28. We, accordingly, quash and set aside the decisions contained in the orders dated 17 June 2020 passed by the Commandant and 16 July 2020 passed by the DIG.

29. The case of the petitioner is remitted to the respondents for fresh consideration in the light of paras 2, 3 and 4 of the order dated 14 February 2020, passed by the coordinate Bench of this Court in Review Petition 68/2020. We make it clear that the case of the petitioner should be considered in terms of Para 4(e) of the Annexure dated 18 May 2015 to the Policy Guidelines of 2015.

30. In the event that it is impossible to adjust the petitioner against any alternate post, a reasoned and speaking order to that effect, specifying the reasons, would be issued and provided to the petitioner forthwith.

31. The writ petition stands allowed to the aforesaid extent with no orders as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

SEPTEMBER 19, 2025/rjd