



2025:DHC:6021-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5708/2025, CM APPL. 42901/2025

SHUBHAM MALIK

.....Petitioner

Through: Mr. Abhay Kumar Bhargava,
Mr. Satyaarth Sinha and Ms. Khushi, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Shagun Shahi Chugh, Sr.
PC with Ms. Nandita Mishra and Mr.
Arvind, Advs. for UOI

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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23.07.2025

C.HARI SHANKAR, J.

1. The Central Industrial Security Force¹ released an advertisement for recruitment to the posts of Constable (Driver) and Constable (Driver-Cum-Pump-Operator) in 2022, to be filled by direct recruitment. The petitioner is an aspirant for the post of Constable (Driver).

2. The petitioner went through the recruitment process which involved physical standard test, physical efficiency test, documentation, trade test, written examination and medical examination. The written examination, which was the last stage of the

¹ "CISF", hereinafter



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selection process before the medical examination, took place on 31 October 2023. The petitioner having qualified in all the stages of the selection till then, became eligible for being medically examined on 29 December 2023.

3. On that date, the petitioner was examined by the Medical Board of the CISF and was found unfit because he was suffering from an Inguinal Hernia (left side). He applied for a Review Medical Examination on 31 December 2023.

4. The Review Medical Examination took place on 2 January 2024 and he was once again declared unfit because of Inguinal Hernia (left side).

5. On 18 January 2024, the petitioner underwent a surgery and, according to the petitioner, the Inguinal Hernia was repaired. Following this, on 20 January 2024, the petitioner claims to have had himself examined by the PL Sharma District Hospital Meerut, which certified that he was no longer suffering from Inguinal Hernia.

6. In these circumstances, the petitioner instituted WP(C) 1370/2024² before this Court, praying that the respondents be directed to medically examine whether he was suffering from Inguinal Hernia and whether he was fit for duties. In the said writ petition, which came up before this Court on 31 January 2024, the Court referred the petitioner to the Research and Referral Hospital³, which was directed

² Shubham Malik v UOI and Ors.

³ RR Hospital



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to examine whether the petitioner was suffering from Inguinal Hernia.

7. The petitioner appeared before the Medical Board of the RR Hospital on 15 March 2024. The Medical Board reported that the petitioner's case was one of healed Inguinal Hernia repair surgery conducted on 18 January 2024 and that there was no residual Inguinal Hernia left.

8. Despite this opinion, the petitioner's candidature was rejected on the ground that within the period during which the petitioner was required to be examined, the Inguinal Hernia repair surgery had not fully healed.

9. The petitioner re-approached this Court by means of WP (C) 7062/2024. In the said writ petition, the petitioner assailed the opinion dated 5 April 2024 of the Medical Board which found him unfit for being recruited into service.

10. On 22 May 2024, this Court noted, in WP(C) 7062/2024, that no fault could be found with the opinion of the Medical Board dated 5 April 2024, as it was the petitioner's own case that in the case of Inguinal Hernia surgery, the candidate was required to be examined only after a period of six months had elapsed from the date of surgery. The writ petition was, therefore, dismissed.

11. After six months had elapsed from the surgery, the petitioner once again represented to the respondents on 23 February 2025, requesting that he be examined to see whether he continue to remain



unfit on the ground of the old Inguinal Hernia surgery that he had undergone.

12. The CISF, *vide* order dated 26 March 2024, rejected the representation on the ground that this Court had not passed any direction requiring the petitioner to be re-examined after a period of six months from the surgery had elapsed.

13. It is in these circumstances that the petitioner has re-approached this Court by this writ petition.

14. The case of the petitioner, as articulated by Mr. Abhay Kumar Bhargava, learned Counsel appearing for the petitioner, is that six months have elapsed since the date of surgery and, according to the “Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles” as issued in May 2015, a patient who had undergone an Inguinal Hernia surgery was required to be examined regarding his fitness for joining a post in the Central Armed Police Forces⁴ only after a period of six months from the date of surgery had elapsed. The relevant clause in this regard read thus:

(d) Inguinal Region: Inguinal hernia is the possibility at the young age. The candidate should be asked to turn his head away from the examiner and cough. A swelling will appear on coughing. It can also to be confirmed *VALSALVA MANEUVER*. Operated cases (with documentary proof) of inguinal hernia may be accepted if the scar is well healed, supple and non-tender, tone of abdominal muscles is good and there is tendency for recurrence months after operating. *An operated case will not be accepted within 6 months of surgery.*”

⁴ CAPF



15. In view of the aforesaid position, we find substance in Mr. Bhargava's contention that, as more than six months have now elapsed since the date he underwent surgery, he is entitled to be re-examined for ascertaining whether he is fit for recruitment to the post of Constable (Driver) pursuant to the aforesaid advertisement.

16. We queried of Ms. Shagun Shahi Chugh, who appears for the respondents, as to whether any vacancies, which were to be filled by the said advertisement, continue to remain unfilled.

17. The petitioner is an EWS⁵ candidate. We note from Clause 3 of the advertisement that 18 vacancies of Constable (Driver) were notified in the advertisement for being filled by direct recruitment under the EWS category. Clause 3.1 of the advertisement read thus:

“3.1 The number of vacancies given above are tentative and may increase or decrease at any time/stage of recruitment process, due to administrative reasons. The revisions in vacancies, if any, will be notified at any stage prior to declaration of final result by displaying the same on CISF recruitment website i.e. www.cisfrectt.in.”

Ms. Chugh submits, on instructions, that the number of EWS vacancies originally notified, which was 18, was subsequently increased to 37. She also submits that, out of the said 37 vacancies, 31 vacancies were filled and six remained unfilled.

18. Ms. Chugh has also drawn our attention to Clause 6.3 of Office Memorandum dated 31 January 2019 issued by the Department of Personnel and Training, which read thus:

⁵ Belonging to the Economically Weaker Section



“6.3 Where in any recruitment year any vacancy earmarked for EWS cannot be filled up due to non availability of a suitable candidate belonging to EWS, such vacancies for that particular recruitment year *shall not be carried forward to the next recruitment year as backlog.*”

Clearly, therefore, the six unfilled EWS vacancies could not have been carried forward and, therefore, continue to remain unfilled.

19. In our view, the respondents were required to have re-examined the petitioner regarding his suitability for recruitment as Constable (Driver) after a period of six months from the date of his surgery had elapsed. The petitioner had in fact specifically addressed a representation to the respondents to that effect. The respondents, however, declined to do so only because this Court had not specifically directed such an examination to take place. There having been no proscription by any order of this Court, restraining the respondents from re-examining the petitioner, we do not see why he was not examined again.

20. In view of the aforesaid, and in order to do complete justice, and keeping in mind the submission of Ms. Chugh that six EWS vacancies pertaining to the aforesaid advertisement remain unfilled, we are of the view that the petitioner is entitled to relief.

21. Accordingly, we dispose of this writ petition in the following terms:

(i) The Medical Board of the CISF would once again



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examine the petitioner to ascertain his suitability for being recruited as Constable (Driver) pursuant to the aforesaid advertisement.

(ii) In case the petitioner is found suitable and satisfies all other conditions for appointment, the petitioner would be entitled to be appointed as Constable (Driver) against one of the six unfilled EWS vacancies.

(iii) In that event, the petitioner's service would be entitled to be counted from the date other EWS candidates, who had applied for the post of Constable (Driver), following the aforesaid advertisement, were appointed. However, the petitioner shall not be entitled to any back wages.

22. The next date of hearing, i.e., 6 October 2025 stands cancelled.

23. The petitioner would present himself before the Medical Board on 30 July 2025 at 11 am. The respondents would intimate Mr. Bhargava, learned Counsel for the petitioner, about the venue where the petitioner should present himself for the review medical examination.

24. The writ petition stands allowed to the aforesaid extent with no order as to costs.

25. Let a copy of this order be uploaded forthwith on the website of this Court and also e-mailed to learned Counsel for the parties to



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ensure compliance.

C.HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

JULY 23, 2025/aky