



2024:DHC:7215-DB



\$~75

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

% *Date of Decision: 17th September, 2024*

+ W.P.(C) 12949/2024 & CM APPL.54028-29/2024

STAFF SELECTION COMMISSION & ORS.Petitioners

Through: Mr. Sushil Kr. Pandey, Sr. Panel
Counsel with Ms. Neha Yadav,
Advocate and SI Vikash Kumar

Versus

BHUPENDRA SINGHRespondent

Through: Ms. Esha Mazumdar, Mr. Setu Niket,
Ms. Unni Maya S., Mr. Ishan Singh
and Ms. Chetna, Advocates

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T (O R A L)

1. The present writ petition under Article 226 read with Article 227 of the Constitution of India has been filed by the petitioners seeking quashing and setting aside of order dated 22.04.2024 passed by the Central Administrative Tribunal (the 'Tribunal'), Principal Bench, New Delhi in O.A. No.889/2024, which was disposed of by the learned Tribunal in terms of directions given vide order dated 22.04.2024 in OA No.597/2024, titled as *Deepak Yadav Vs. Staff Selection Commission & Ors.*

2. Pursuant to notification dated 01.09.2023 for direct recruitment to the post of Constable (Exe) Male and Female in Delhi Police, 2023, the respondent applied for the post of Constable (Exe.) Male. He appeared in the



examination process conducted by petitioner-Staff Selection Commission ('SSC'). The result of Computer Based Examination was declared on 31.12.2023 and thereafter, Physical Endurance and Measurement Test (PE & MT) were conducted by the Delhi Police from 13.01.2024 to 20.01.2024. The medical examination of candidates, who qualified in the PE & MT, was conducted at CAPFs Hospitals as per medical norms.

3. The Detailed Medical Examination (DME) and Review Medical Examination (RME) were scheduled in four different centres from 17.01.2024.

4. The PE & MT of respondent were held on 17.01.2024 and after qualifying the same, document verification was also conducted on the same day. Thereafter, on 18.01.2024, the respondent's DME was conducted at Base Hospital, ITBP, New Delhi, wherein he was declared unfit on account of "*Tattoo on Right Forearm ventrally, Tinea Curies at Butroy*".

5. In the Review Medical Examination conducted by Review Medical Board on 20.01.2024, the respondent was again declared unfit on account of "*A Tattoo mark depicting religious symbol of (OM) over inner aspect of Right Forearm (Saluting hand)*".

6. In the final result for the aforesaid post declared on 24.01.2024, the respondent could not make his place. Thus, he preferred OA No.889/2024 before the learned Tribunal challenging the order dated 20.01.2024 passed by the Review Medical Board wherein he was declared unfit for recruitment.

7. The respondent pleaded before the learned Tribunal that he had successfully qualified the computer based examination, PE & MT and document verification, however, he has been declared unfit on account of



2024:DHC:7215-DB



having tattoo. The respondent pleaded that as per Para- 16.13 of the Advertisement, medical examination has to be conducted in different Government hospitals in Delhi, however, his medical and review medical examinations were held at Base Hospital, ITBP, Tigri Camp, New Delhi. The respondent also claimed that he had scored 74.83613 marks against cut off marks 68.04388 and thus, he deserves to be selected.

8. Learned Tribunal, vide impugned order dated 22.04.2024, observed that the OA stands covered by its decision dated 22.04.2024 passed in OA 597/2024, titled ***Deepak Yadav Vs. Staff Selection Commission & Ors.*** and disposed of respondent's OA in the light of afore-noted decision.

9. Being aggrieved, the petitioners have preferred the present petition on the ground that the learned Tribunal did not appreciate that the advertisement dated 01.09.2023 and Standing Order dated 08.04.2022 passed by Delhi Police explicitly prohibit tattoo on the right arm of the police personnel.

10. During the course of hearing, learned Senior Panel Counsel appearing on behalf of petitioners has submitted that the learned Tribunal did not appreciate that in the disciplined force, a person having tattoo on saluting arms would be unfit. Further submits that the learned Tribunal did not consider that there cannot be any deviation from the Rules of appointment and terms of the advertisement and thus, the impugned order dated 22.04.2024 deserves to be aside.

11. To the contrary, learned counsel appearing on behalf of the respondent submits that there is no merit in the present petition and the same deserves to be dismissed.



2024:DHC:7215-DB



12. The undisputed facts of the present case are that the final result for recruitment to the post of Constable (Exe) Male & Female in Delhi Police Examination- 2023 was declared by the Staff Selection Commission on 24.01.2024. The first batch of the provisionally selected candidates, whose codal formalities viz. verification of character & antecedents, final checking of documents and medical examination were complete in all respect, were sent for basic training from 04.03.2024. The basic training of the second batch commenced from 01.07.2024. As such, recruitment process for the post of Constable (Exe.) Male & Female in Delhi Police Examination -2023 is complete in all aspects.

13. It is pertinent to mention here that Court in a somewhat similar case, titled as ***“Staff Selection Commission & Ors Vs. Deepak Yadav”*** in W.P.(C) 10084/2024, vide its decision dated 24.07.2024 has observed that when any candidate having a tattoo on his/her forearm and entering in the selection process of any Force, including Delhi Police, which is objectionable to the Selection Board; then opportunity has to be granted to such a candidate to get the tatoo removed, within a time bound manner. Despite, if he or she still does not get the tatoo removed, his or her candidature is liable to be rejected.

14. The High Court of Rajasthan in the case of ***Union of India, Through Secretary, Ministry of Home Affairs, Govt. of India versus Sanyogita*** (2024:RJ-JD:20026-DB), while dealing with a similar issue, has observed as under:-

“8. A bare perusal of the aforesaid provision would reveal that what could be made a ground for disqualification of a candidate would be existence of



tattoo mark. The background in which the tattoo mark has been treated to be a ground for medical unfitness has been stated in the first part of the provisions. It is stated that such tattoo marks are not only distasteful but also distract from good order and discipline in the force. However, there is no absolute prohibition in having a tattoo mark. The provisions carve out exception that a candidate despite having tattoo mark, would not be held to be medically unfit.”

15. During the course of hearing before this Court, the respondent has appeared in person and by showing his right arm he submits that he has already got the tattoo removed by surgery.

16. We have physically seen the right forearm of the respondent and from the naked eye, the tattoo is not even visible. The same has been shown to the counsel for the petitioners and the officials of petitioners, who are present in Court to assist learned Senior Panel Counsel. The fact is that as on the date, the respondent does not have a visible tattoo on his right forearm and also, he is otherwise eligible in all aspects.

17. In view of the above, finding no error or perversity in the order passed by the learned Tribunal, the present petition is accordingly dismissed. Pending applications are disposed of as infructuous.

18. Having held above, this Court directs the petitioners to allow the respondent to join the training scheduled in the month of November, 2024.

SURESH KUMAR KAIT, J

GIRISH KATHPALIA, J

SEPTEMBER 17, 2024/rk/r