

Court No. - 37

Case :- WRIT - A No. - 320 of 2022

Petitioner :- Avneesh Kumar And 2 Others

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Binod Kumar Mishra, Ajay Kumar Rai

Counsel for Respondent :- A.S.G.I., Pramod Kumar Pandey

Hon'ble Siddhartha Varma, J.

The Ministry of Home Affairs, Government of India on 20.7.2018 issued an advertisement for the recruitment of Head Constables (Ministerial). The petitioners who were qualified for being appointed on the posts in question, had applied and were also declared successful in the result which was declared on 20.5.2021. The petitioners appeared for their typing test and were declared successful in the typing test also on 17.9.2021. Thereafter they were required to have their medical examination on 13.11.2021 and had to report for this purpose at 8.00 AM. The petitioners, however, were found unfit by orders dated 15.11.2021. Resultantly, they applied for the review medical examination on 16.11.2021, the result of which was declared on 17.11.2021 and these results have been challenged before this Court.

The petitioner no.1-Avneesh Kumar was declared unfit on account of the fact that he had a tattoo mark on his right forearm. The petitioner no.2-Mohit Kumar was also declared unfit on account of the fact that he had a tattoo mark on the right forearm and the petitioner no.3-Gaurav Kumar was declared unfit for having a tattoo mark on his right forearm and also for a reason that he had extensive tinea versicolor on back shoulder.

The contention of learned counsel for the petitioners is that the petitioners had prayed that if an opportunity was provided, they

would have removed the tattoos and thereafter the review medical examination could again be done on the petitioners. Learned counsel for the petitioners relying upon a judgment of this Court passed in Service Bench No.1129 of 2013 (Vihaan Nagar vs. Union of India & Ors.) dated 7.11.2013 has submitted that if tattoos were removed then a review medical could always be done in which the petitioners could be found fit for selection.

Learned Additional Solicitor General of India Sri S.P. Singh assisted by Sri Pramod Kumar Pandey, however, on the basis of instructions which they have received submitted that so far as the removal of tattoos is concerned, the respondents would be bound by the Division Bench judgment of the High Court referred to by learned counsel for the petitioners. He, however, submits that the petitioner nos.2 and 3 who were also having Myopia and extensive tenia versicolor on back shoulder would be considered for employment only if those diseases were no longer there.

Under such circumstances, a direction is being issued that if the petitioners' tattoos are removed then that particular disability may not be considered as an obstacle for selection on the ministerial posts for which the petitioners had applied. However, if the petitioner nos.2 and 3 had any disability which according to the respondents were permanent in nature, then they may not be considered. The review medical board shall complete this exercise within a period of two months.

With these observations, the writ petition stands partly allowed.

Order Date :- 7.3.2022

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(Siddhartha Varma, J.)