

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

% **Date of decision: 23rd December, 2020.**

+ **W.P.(C) 11004/2020**

LEKHRAJ MEENA

..... Petitioner

Through: Mr. Aditya Jain, Ms. Neha Gyamlani
and Ms. Bhavya Golecha, Advs.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Nidhi Raman, Adv. with Mr.
Vivek Kumar Singh, DC Law/Pairvi
Officer, CRPF.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

1. The petitioner, belonging to the Scheduled Tribes (ST), and a candidate for recruitment as Sub-Inspector (SI) in Delhi Police, Central Armed Police Forces and Assistant Sub-Inspector (ASI) in Central Industrial Security Force (CISF), pursuant to the Notification dated 17th September, 2019 issued by the Staff Selection Commission (SSC), has filed this petition, pleading (i) that the recruitment process comprised of Computer Based Examination (Paper-I), with those qualifying in the same, undergoing Physical Standard Test (PST) and Physical Efficiency Test (PET) and those qualifying therein proceeding to Paper-II and ultimately those qualifying in the same being subjected to a Detailed Medical Examination; (ii) that the petitioner, in the result of the Paper-I declared on

8th February, 2020, had secured 96% against the cut off limit provided of 74.54% marks for the ST category and was declared provisionally qualified for the PST/PET and called for the same on 8th December, 2020 by the SSC; (iii) that in the PST/PET conducted at the Group Centre, Central Reserve Police Force (CRPF), Greater Noida, Uttar Pradesh on 8th December, 2020, the petitioner though qualified in the PET but in the PST was rejected for the reason of not satisfying the height criteria; (iv) that though in the PST, the height of the petitioner was measured as 165 cms against the cut off limit of 162.5 cms provided for those belonging to the ST category, but the petitioner was found to have not filled up the form of certificate for height relaxation as per Annexure-IX to the SSC Notification dated 17th September, 2019 and which was necessary to be filled up/submitted for availing the relaxation in height available to the ST category candidates; else the height prescribed for the general category candidates was 170 cms: (v) however, Mr. Mahesh Kumar, Commandant 235 VS BN, CRPF who was also the Presiding Officer, PET/PST Board, conducting the PST qua the petitioner at the Group Centre, CRPF, Greater Noida, gave the petitioner a certificate granting five working days' time for submitting the requisite form of certificate for height relaxation as prescribed in the Annexure-IX to the SSC Notification dated 17th September, 2019 from the competent authorities of the district where the petitioner ordinarily resides; (vi) that the said form of certificate for height relaxation, as per Annexure-IX of the SSC Notification dated 17th September, 2019, was required to be issued by the Magistrate, Sub-Division Magistrate (SDM) or the District Tehsildar and the petitioner was required to go back to his home town i.e. Karauli in Rajasthan to obtain the same;

(vii) that though the petitioner, along with his online application form for recruitment had submitted a caste certificate, of belonging to the ST category on 8th December, 2020 but the same was not in the form as prescribed in Annexure-IX to the SSC Notification dated 17th September, 2019; (viii) that the petitioner was delayed in reaching his home because of the ongoing Farmers' Protest and could only reach his home on 10th December, 2020 and approached the office of the District Tehsildar on the same day; and, (ix) that Mr. Ram Karan Meena, the officer incharge approached by the petitioner, misconstrued the requirement of the Annexure-IX to the said SSC Notification dated 17th September, 2019 and interpreted it as requiring him to certify that the petitioner belonged to the hilly areas of Garhwal, Kumaon, Himachal Pradesh, Gorkhas, Dogras, Marathas, Kashmir Valley, Leh & Ladakh regions of J&K, North-Eastern States and Sikkim, and thus, felt no need to fill the prescribed certificate as per the Annexure-IX to the said SSC Notification dated 17th September, 2019.

2. We may pause at this stage and record that a perusal of Clause 11.6 of the SSC Notification dated 17th September, 2019, detailing the minimum requirements and relaxations made in the PST and PET, shows that while candidates belonging to the hilly areas aforesaid, form one category of candidates who were entitled to relaxation, *inter alia*, in height as per Clause 11.6.1(ii), there was a separate category for all candidates belonging to the ST category, also *inter alia* for relaxation in height as per Clause 11.6(iii). The District Tehsildar thus, was clearly wrong in denying the certificate for height relaxation to the petitioner, as pleaded by the petitioner, for the reason of the petitioner not belonging to the hilly areas.

3. Resuming the narrative in the petition, it is further the plea of the petitioner (i) that he approached the office of the SDM, Karauli District, on 11th December, 2020 but again the staff administration was busy with Municipal Elections held in Rajasthan from 11th December, 2020 to 13th December, 2020; (ii) Ultimately, the petitioner reached the office of the District Magistrate, Karauli District, who after seeing the caste certificate of the petitioner, on 14th December, 2020, issued the certificate for height relaxation as required in Annexure-IX to the said SSC Notification dated 17th September, 2019; (iii) that the petitioner reached the Group Centre, CRPF, Greater Noida with the said certificate for height relaxation on the morning of 15th December, 2020 and presented the same to Mr. Vinay Anand Prakash, Commandant, 89 VB BN, who was also the Presiding Officer, PET/PST Board, but was not permitted to submit the said certificate for the reason of submitting the certificate after the five days granted to him; and, (iv) that the delay beyond the stipulated five days on the part of the petitioner was for reasons beyond the control of the petitioner.

4. We have enquired the response from the counsel for the respondents appearing on advance notice.

5. The counsel for the respondents has contended that the certificate for height relaxation, as per the Annexure-IX to the SSC Notification dated 17th September, 2019, was to be submitted, besides the caste certificate of belonging to the ST and was required to be either submitted along with the application form or latest when appearing for the medical examination and though the petitioner defaulted in the same but was still given latitude of five days for submitting the certificate but the petitioner was unable to and

thus, there is no error in the stand of the respondents.

6. On enquiry, the counsel for the respondents states that the recruitment process is still on, with the PST/PET being underway.

7. We are of the view that the very fact that members of the STs have been granted certain reservations/relaxations, not only legislatively but also constitutionally, shows the need therefor. The said need has to be fulfilled, not only by providing reservations/relaxations but also by providing relaxations in implementing the said reservations and benefits conferred on the STs. The reasons and objective of providing such reservations/relaxations should not be lost sight of while implementing the reservations and relaxations. The said reservations/relaxations are in admission of the disadvantages which the STs have suffered for generations and which disadvantages place them in a unequal position vis-a-vis other citizens. Such disadvantages extend to all parameters of day to day life, making it more difficult than for others. The said reservations/relaxations cannot be given by one hand and taken away by another, invoking technicalities, forgetting the hardship and difficulties faced by such members in accomplishing smallest of the things, including of literacy and awareness. The default by the petitioner in submitting the certificate for height relaxation as per Annexure-IX to the SSC Notification dated 17th September, 2019, though submitted a caste certificate of belonging to the ST, cannot, in our view, be enforced pedantically, forgetting the very purpose of granting the reservations/relaxations and depriving the STs of benefits thereof. Moreover, the ongoing Farmers' Protest around the National Capital Region, cannot also be ignored and judicial notice has to be taken notice thereof in ensuring that none is deprived of due owing

thereto. The petitioner is found to have been forthcoming in his disclosure, also of the reason for which the Tehsildar declined the certificate for height relaxation to the petitioner. Had the Tehsildar not so declined, the petitioner would have possibly reported back with the said certificate within the time granted to him.

8. Issuing notice of the petition and calling for reply, in the aforesaid facts and circumstances, is not felt necessary as the recruitment process may be over by the time the petition is decided. It is thus deemed appropriate to allow the petition today itself.

9. The petition is allowed. The respondents are directed to permit the petitioner to submit the certificate for height relaxation as stipulated in Annexure-IX to the SSC Notification dated 17th September, 2019 and if find the said certificate in order and the petitioner qualifying in PST/PET, to allow the petitioner to forthwith join back the recruitment process and to consider the recruitment of the petitioner in accordance with the law/procedure.

10. The Pairvi Officer of the CRPF present during the hearing, on enquiry, states that the petitioner may submit the said certificate to the same Board, which had conducted the PST/PET of the petitioner, latest by 1600 hours on 26th December, 2020.

11. The petition is disposed of.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

DECEMBER 23, 2020/'bs'