



IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 890/2023

RAKSHIT SHIVAM PRAKASH

...PETITIONER(S)

VERSUS

UNION OF INDIA AND ANR.

...RESPONDENT(S)

ORDER

1. Aspiring employment in the Union Public Service Commission ('UPSC'), the petitioner applied and participated in the selection process of the Civil Services Examination 2014, which commenced with a notification by the UPSC on 31.05.2014. The petitioner qualified in Prelims, Mains and also the Interview. He was called to attend the medical examination, conducted by the Central Standing Medical Board on 29.04.2015. After the medical, he was declared to be 'temporarily unfit', due to his Body Mass Index (BMI) being 31.75, which is higher than the prescribed standard of 30 BMI. The petitioner duly applied for a re-medical test which was scheduled to take place on

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Reason:

29.07.2015.

2. On 04.07.2015, UPSC published the final result, and the petitioner's name did not appear in the list. It is the petitioner's case that he concluded that the selection process is complete upon publication of this final result and having lost hope, he did not appear for the re-medical test scheduled for 14.07.2015.

3. The most amazing things in life happen right at the moment you are about to give up hope. On 19.01.2016, a consolidated reserve list of 126 candidates was published for filling up the remaining posts. The petitioner was shown to have secured rank 93rd in this list. At the same time, candidates ranked below the petitioner on that list, up till 97th rank, were allocated service. With this publication, his hope became a claim of right.

4. Petitioner approached the Central Administrative Tribunal, Patna seeking directions to be treated at par with the other candidates in the list dated 19.01.2016. The Tribunal dismissed petitioner's Application by relying on its own decision in the case of one Mr. K. Rajashekhara Reddy, who was similarly placed as even he could not qualify the medical. Questioning the decision of the Tribunal, the petitioner filed a Writ Petition before the High Court of Patna.

5. During the pendency of this Writ Petition, case of Mr. K. Rajashekhara Reddy was allowed by the High Court, Telangana on

06.04.2021. Union of India challenged the judgment of the High Court in a Special Leave Petition, where this Court by order dated 14.06.2022 directed re-medical. In the re-medical, Mr. K. Rajashekhara Reddy was found to be fit for all services. Thus, this Court in exercise of its plenary jurisdiction under Article 142 of the Constitution of India, directed consideration of K. Rajashekhara Reddy for appointment, with all consequential benefits excepting salary for the period he didn't work.

6. On strength of the above decision, dated 14.06.2022, the petitioner withdrew his pending Writ Petition before the High Court of Patna in order to make a representation before the Respondent Authorities instead, to give him similar treatment.

7. Consequently, petitioner's representation was met by a reply by the Department of Personnel and Training stating, that the decision of the Supreme Court dated 14.06.2022 upholds the stand of the Government regarding prescription of a time limit for medical re-examination of 'temporarily unfit' candidates. As per the Civil Services Examination Rules, 2014 the status of the petitioner is confirmed as 'Unfit for all Services'.

8. It is pursuant to the above line of facts that the petitioner has filed the present Writ Petition under Article 32, seeking –

- i) a direction to the respondents for allocation of service to the petitioner with all consequential benefits against the Civil Services Examination, 2014; at par with other similarly placed candidates in the Reserve List dated 19.01.2016, and
- ii) a direction for conduct of a re-medical examination, if required.

9. We heard Mr. M.L.Varma, Sr. Advocate appearing on behalf of the petitioner and Mr. VVV Pattabhiram, Advocate for the respondents. We have entertained this petition under Article 32 in August 2023 and the case was adjourned from time to time. Mr. Pattabhiram appeared for the Union after taking instructions and has also filed a counter affidavit opposing the prayer.

10. At the outset we reject the prayer (i) made by the petitioner for allocation of service and consequential benefits against Civil Services Examination, 2014. In so far as the alternative prayer for a direction for conducting re-medical examination is concerned the position on fact and law is as follows.

11. Though the petitioner was declared to be 'temporarily unfit' after the medical examination dated 29.04.2015, he was entitled to a re-examination which was slated to take place on 14.07.2015. It is an

unfortunate situation that the petitioner assumed that he had lost out and overlooked the chance that was provided to him on 14.07.2015, when he was called for re-examination.

12. When he realised that identically placed candidates, who appeared in consolidated list on 19.01.2016 and were less meritorious than him, were allotted service, the petitioner approached the Tribunal which did not entertain his petition only for the reason that Mr. K. Rajashekhara Reddy's case was already decided and dismissed.

13. The case of Mr. K. Rajashekhara Reddy may not be identical but life being what it is, one commonality is in the fact that Mr. K. Rajashekhara Reddy also missed the medical re-examination and his prayer, similar to that of the Writ Petitioner, was accepted by the High Court; and this Court did not interfere with the Order while exercising jurisdiction under Article 142 of the Constitution of India. Further, when Mr. K. Rajashekhara Reddy was granted relief by this Court, he was 38 years old and had exhausted all his attempts for Civil Services Exams. The petitioner is 35 years old, and he too has exhausted all his attempts.

14. Having considered the facts and circumstances of the case, we consider it appropriate to grant a limited relief. This will be to direct the

respondents to re-schedule the re-medical test that was to be conducted on 14.07.2015, which the petitioner unfortunately missed.

15. At the same time considering the fact that the original re-medical examination was to happen in 2015 and almost a decade has passed by, we direct that in the event the petitioner qualifies in the medical re-examination, he shall neither claim appointment in the 2014 Batch, nor will he be entitled to seniority in the Batch in which he could be appointed. We also clarify that, upon clearing the re-medical, if he is to be given appointment, his services shall commence from the date of the appointment. This is an exceptional case in which we have exercised our jurisdiction under Article 142 of the Constitution of India to do complete justice and as such the present decision shall not be treated as a precedent in any case.

16. For the reason stated above, we partly allow this Writ Petition and direct the respondents to call the petitioner for a re-medical test within a period of four weeks. There shall be no order as to costs.

.....J.
[**PAMIDIGHANTAM SRI NARASIMHA**]

.....J.
[**PANKAJ MITHAL**]

NEW DELHI;
AUGUST 02, 2024.