

HIGH COURT OF CALCUTTA**Bench : The Hon'ble Justice Raja Basu Chowdhury, J.****Date of Decision: 24th May, 2024**

CIVIL APPELLATE JURISDICTION

Appellate Side

WPA 12382 of 2015

SURYA MANDDY & ORS. ...PETITIONER(S)**VERSUS****UNION OF INDIA & ORS. ...RESPONDENT(S)****Legislation:**

Indian Constitution, Articles 14, 16, and 21

Railway Protection Force Rules, 1987

Employment Notice No. 01/2011

Subject: Writ petition challenging the selection process for the post of Constable in the Railway Protection Force (RPF) and seeking issuance of appointment letters to the petitioners who successfully cleared all stages of selection but were not appointed.

Headnotes:

Recruitment Process – Selection for Post of Constable – Alleged Irregularities – Petitioners successfully cleared written examination, Physical Efficiency Test (PET), Physical Measurement Test (PMT), and viva voce, yet appointment letters not issued – High Court examined the selection process and found procedural irregularities in rejecting candidates despite their qualifications – Directions issued for reconsideration of certain candidates.

Right to Fair Treatment – Impersonation Allegations – Held – Rejection of candidates on mere suspicion of impersonation without giving them an opportunity to respond is unjust – High Court directed authorities to process candidatures of two petitioners alleged to have impersonated, as no substantive evidence was provided, and to consider them for appointment based on merit.

Decision – Petition Partly Allowed – The High Court directed the respondents to process the appointments of Krishna Murari Kumar and Binod Kumar, found eligible but rejected on suspicion of impersonation – Authorities to complete this process within four weeks and accommodate in next available vacancies if current vacancies are filled – Age bar impediments waived for delayed processing – Remaining petitioners found ineligible based on marks secured compared to last selected candidates in respective categories.

Referred Cases:

- Union of India v. Rajesh P.U., Puthuvalnikathu (2003) 7 SCC 285

- State of Bihar v. Amrendra Kumar Mishra (2006) 12 SCC 561
- State of UP v. Ravindra Kumar (2009) 7 SCC 435

Representing Advocates:

Mr. Suryasarathi Basu for the Petitioners

Mr. S.N. Dutta for the Respondents

Mr. Saikat Karmakar for the Respondents

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Raja Basu Chowdhury, J.

1. Challenging a selection process initiated by the respondents vide an advertisement notice dated February 27, 2011 inviting applications for the post of Constable in RPF and praying for issuance of appointment letters in favour of the petitioners, the present writ petition has been filed.
2. The petitioners claim to be eligible candidates for the aforesaid posts of constable and participated in the selection process. After having successfully completed the written examination, the petitioners were permitted to participate in the Physical Efficiency Test (PET) and Physical Measurement Test (PMT) at the second stage of the selection process. The petitioners having become successful at the second stage of the selection process were issued call letters by the authorities for them to appear in the viva voce. According to the petitioners, the petitioners participated in the viva voce and thereafter, the documents of the petitioners were verified by the authorities.
3. Upon completion of aforesaid procedure, the petitioners were required to proceed for medical examination. Accordingly, the medical examination of the petitioners was conducted by the designated medical doctors. Although, according to the petitioners, they had been declared medically fit and despite their names appearing in the panel

of successful candidates, no appointment letters were issued. Being aggrieved thereby, the writ petition has been filed.

4. Mr. Basu, learned advocate appearing for the petitioners, by drawing attention of this Court to the employment notice no.1 of 2011, submits that initially, 11952 vacancies under different categories were notified. Subsequently, however, during pendency of the selection process, additional vacancies were notified vide revised employment notice no.1 of 2011 wherein the total number of vacancies were increased to 17087 under different categories. By drawing attention of this Court to the original employment notice no.1 of 2011, which has been annexed to the report in the form of an affidavit affirmed on behalf of the respondents on 23rd July 2015, it is submitted that the said notice not only identifies the eligibility criteria but also categorises and provides for the methodology of recruitment.
5. According to Mr. Basu, recruitment is to be made based on written examination, PET, PMT, viva voce and document verification. The first stage of the aforesaid selection process is written examination and in General category, candidates must obtain at least 35% marks which is relaxed to 30% in case of SC/ST candidates. The petitioners not only succeeded in the written examination but also the PET and viva voce examination for which ultimately the petitioners were sent for medical examination test. According to Mr. Basu, once, the petitioners succeeded in medical examination test, the authorities are obliged to call the petitioners for training. Unfortunately, in this case, notwithstanding the names of the petitioners being published in the list of successful candidates, no appointment letters were issued inviting the petitioners for training.

6. Record reveals that when the writ petition was moved, by an order dated July 13, 2015, a Coordinate Bench of this Court had directed the Railway Protection Force to file a report in the form of an affidavit stating therein specifically as to whether the allegations made in the writ petition have any basis or not. Pursuant to the aforesaid, a report in the form of an affidavit has been filed by the respondents which had been affirmed on 23rd July, 2015. From the disclosure made in the said affidavit, it would be apparent that the respondents have contended that apart from the three petitioners, all other petitioners could not succeed in the selection process since they did not secure the cut off marks.
7. According to Mr. Basu, the candidature of Krishna Murari Kumar and Binod Kumar was rejected since, the LTIs' of the concerned persons did not match with the OMR sheets. This was a case of alleged impersonation and as such, their cases were also not proceeded further.
8. Insofar as Buddhadeb Das is concerned, he did not succeed in medical examination and as such, his candidature was rejected.
9. Mr. Dutta, learned advocate representing the respondents, by drawing attention of this Court to the records of this case, has placed the names of the last selected candidates to respective category in which such candidate has been selected including their roll numbers, date of birth and percentage of marks obtained by the candidates in respect of such category.
10. Having regard to the aforesaid, it is submitted that the last selected candidates in the particular categories had secured higher marks than the petitioners. The contentions of the petitioners they had succeeded

in the selection process cannot be accepted. No interference is called for and the writ petition should be dismissed with costs.

11. Heard learned advocates for the respective parties and considered the materials on record.
12. It would be apparent that the petitioners had participated in the selection process initiated by the respondents vide employment notice no.1 of 2011. From the latest affidavit filed by the respondents in Court pursuant to the order dated February 20, 2024, it would appear that out of 7,20,340 candidates who had appear for the written examination, 1,53,042 male candidates qualified for PET and PMT and thereafter viva voce was conducted. In the petitioners' case, medical examination and document verification was also completed. According to Mr. Dutta, simply because a candidate is permitted to appear before the medical examination, the same does not confer such a candidate with a right to get an appointment. In this case the names of the last selected candidates with their percentage of marks awarded to them under four different categories along with their roll number and date of birth have been disclosed, which are extracted hereinbelow:-

C a t e g o r y	T o t a l P o s t / L a s t R a	R o l l	N a m e o f l a s t c a n d i d a	D O B	G T O T p e r c e n t a g e
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S C	1 9 6 5	2 1 3 1 1 0 3 6 6 8	C H I N M A Y M A N D A L	1 4 .0 4 .1 9 9 3	4 7 .3 8
S T	1 3 6 5	5 1 4 5 1 6 6 7	S U R E S H K U	0 4 .0 8 .1 9	4 0 .4 5

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13. From the disclosure made in the report in the form of an affidavit filed by the respondents, it would be apparent and clear that save and except Krishna Murari Kumar and Binod Kumar, no other petitioners succeeded in getting higher percentage than the last candidate selected in their respective categories.
14. Having regard to the aforesaid, I am of the view that the petitioners except Krishna Murari Kumar and Binod Kumar have failed to make out a case for interference.
15. Insofar as Krishna Murari Kumar and Binod Kumar are concerned, although, a claim has been made by the respondents that they have impersonated in as much as the LTI of the relevant candidates does not match with the LTI in the OMR sheets, and a FIR had been lodged against the aforesaid persons, no opportunity was afforded to the aforesaid persons to take an exception in respect such finding. Interestingly, Krishna Murari Kumar had secured 77.29% under OBC category though the last selected candidate in such category secured 65%. Insofar Binod Kumar is concerned, he had secured 66.79% under ST category while the last selected candidate under the said category only secured 40.45%.
16. Having regard to the aforesaid, I am of the view that the respondents cannot be permitted to reject a candidate based on mere suspicion. Although, certain documents captioned 'opinion on finger print verification' have been disclosed, there is nothing on record to

demonstrate the respective candidates were put on notice with regard to the aforesaid documents or had been given any opportunity to explain. In this context, it would be relevant to quote the relevant provision on impersonation of candidates as appearing in the employment notice no.01/2011 dated February 23, 2011. The relevant provision is extracted hereinbelow:-

- “9. e) Impersonation, if any, detected at any stage of the recruitment, may result in initiating criminal cases against the applicant and the impersonator as well as cancelling the candidature of the applicant.
- f) Candidates found to be having adverse report on their antecedents and character may not be appointed in RPF including RPSF. False declaration is an offence under the law and will lead to disqualification of the applicant, institution of criminal case and also dismissal from service, if appointed. Hence, applicants are advised to be careful while filling in the application.
- g) The decision of Selection Committee on all matters relating to eligibility, place, venue, date, mode of selection, acceptance or rejection of the application will be final and binding on the applicants.
- h) If a candidate has any grievance regarding physical measurement and the Chairman of the Recruitment Committee does not redress the same, he may, within three days, approach the Grievance Redress Cell in the office of the Zonal Chief Security Commissioner concerned whose decision shall be final.
- i) Persons applying under the Ex. Servicemen quota should note that in accordance with the instructions of the Ministry of Personnel, Public Grievances and Pension, Govt. of India, an applicant who has already availed the benefit of Ex. serviceman's status and got any Govt. job shall not be allowed to avail the benefit under the Ex. Serviceman quota in this recruitment.
- j) An applicant serving under a Govt. or Public Sector Enterprise/Undertaking including Railways will be considered for appointment only after he/she furnishes a No Objection Certificate duly issued by the employer at the time of Viva-Voce along with an undertaking from the employer that in case of selection, the department will spare the candidate for joining the RPF.
- k) The Railway Administration reserves the right to call an applicant to any place for the Written Examination/PET/Viva-Voce/Documents Verification.
- l) Railway Protection Force includes Railway

Protection Special Force.

- m) The Railway Administration shall not be responsible for postal delay or wrong delivery of the Application or any Call letter.
 - n) Canvassing in any form will be a disqualification.”
17. From the disclosure made by the respondents in the affidavit affirmed by the Senior Divisional Security Commissioner on March 15, 2024, an FIR appears to have been lodged. Mr. Dutta learned advocate representing the respondents submits that a police case has also been started by the Hare Street Police Station. The respondents have however, failed to demonstrate the steps taken by them in connection with the above FIR. The respondents have also failed to identify the steps taken by the police authorities in furtherance to the FIR. In view thereof, meritorious candidates securing high marks cannot be ignored on the whims and caprice of the respondents that to on the basis of suspicion.
18. Accordingly, I direct the respondents to forthwith process the candidatures of Krishna Murari Kumar and Binod Kumar for appointment as expeditiously as possible, preferably within a period of four weeks from the date of communication of the order. If, however no vacancy is presently available to wait-list the aforesaid two candidates and to complete the process by accommodating them in the next available vacancy for the post of constable in the RPF. Since, the writ petition had been pending for several years, the impediment of age bar, if any, shall not stand in the way of processing the candidature of the aforesaid petitioners for appointment.
19. To the aforesaid extent, the writ petition stands allowed.
20. There shall be no order as to costs.
21. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

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