

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 11766/2022

Surendra Kumar S/o Shivpal Singh, Aged About 36 Years, R/o
Jhigar Bari, Sikar, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Chief Conservator Of Forests (Head Of Forest Force) Aranya Bhawan, Jhalana Institutional Area, Rajasthan, Jaipur.
2. The Deputy Conservator Of Forest (Administration), Jaipur.
3. The Principal Chief Conservator Of Forest (Hoff), Jaipur.
4. The Additional Principal Chief Conservator Of Forest (Administration), Rajasthan, Jaipur.
5. The Secretary, Department Of Personnel, Govt. Secretariat, Jaipur.
6. Rajasthan Public Service Commission, Through Its Secretary, Ajmer.

-----Respondents

For Petitioner(s) : Mr. R.P. Saini.

For Respondent(s) : Mr. Ajay Pratap Singh, Dy.G.C.

HON'BLE MR. JUSTICE INDERJEET SINGH

Order

31/08/2022

1. Instant writ petition has been filed by the petitioner with the following prayers:-

"It is therefore, most respectfully prayed that this Hon'ble court may very graciously be pleased to accept and allow this writ petition and further be pleased to:

- i. Issue an appropriate writ, order or direction in the nature thereof, the respondents be directed to give appointment to the petition on the post of ACF and Forest Ranger Conservative Officer Grade-I as the

petitioner secured more marks than a last cut off in his category.

ii. Issue an appropriate writ, order or direction in the nature thereof thereby, the impugned order dated 26.07.2022 may kindly be declared illegal and be quashed and set aside whereby they oust the petitioner from the selection process illegally on the ground of not having requisite chest.

iii. Issue an appropriate writ order or direction in the nature thereof thereby, direct the respondents, the measurement of chest of the petitioner may kindly be made properly through qualified doctors at SMS Hospital at Jaipur or AIMS Hospital at Jodhpur.

iv. Issue an appropriate writ order or direction in the nature thereof thereby, the action of the respondents may kindly be declared illegal by which they have wrongly measured the chest of the petitioner.

v. Pass any other appropriate order which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case in favour of the petitioner.

vi. Cost of the writ petition be also awarded in favour of the petitioner."

2. Brief facts of the case are that the petitioner participated in the selection process for appointment on the post of ACF and Forest Ranger Conservative Officer Grade-I in pursuance to the advertisement dated 04.04.2018 and after having been declared successful in the written examination, the petitioner was called for physical efficiency test and the result of the successful candidates was declared and the petitioner was not appointed by the respondents on the ground that his chest is less than the required measurement i.e. Normal 84 cm & Expanded 89 cm. Being aggrieved by non-selection of his candidature on the post of ACF and Forest Ranger Conservative Officer Grade-I, the petitioner has filed the present writ petition.

3. This Court on 05.08.2022, passed the following order:-

"Heard counsel for the petitioner.

Issue notice to the respondent(s), returnable on 31.08.2022.

Counsel for the petitioner may supply a copy of the petition in the office of Mr. Zakir Hussain, Adv., during the course of the day. Office is directed to show the name of Mr. Zakir Hussain, Adv., in the cause list.

Meanwhile, the Superintendent, AIIMS Jodhpur is directed to take the measurement of chest of the petitioner by a Medical Board and submit the report of the Medical Board to this Court. The petitioner is directed to appear before the Superintendent, AIIMS Jodhpur along with copy of this order on 22.08.2022.

Counsel for the respondent may send their representative on 22.08.2022 before the Superintendent, AIIMS Jodhpur, if they so desire.

List on 31.08.2022. "

4. Counsel for the petitioner submits that the respondents have wrongly rejected the candidature of the petitioner on the ground of his chest being less than Normal 84 cm & Expanded 89 cm. Counsel further submits that in compliance of the order passed by this Court dated 05.08.2022, the petitioner again appeared before the Medical Board and the Medical Board submitted its report to this Court on 22.08.2022, with the opinion as under:-

"Opinion of medical board:-

On examination of the petitioner, the board has found that the Chest Measurement of the individual is as follows:-

Chest -

Normal – 88 CM

Expanded – 93 CM"

5. Counsel further submits that as per the opinion of the Medical Board dated 22.08.2022 chest measurement of the petitioner comes to 'Normal 88 cm & Expanded 93 cm' as required under the Rules for appointment on the post of ACF and

Forest Ranger Conservative Officer Grade-I, therefore, rejection of his candidature is arbitrary in nature and prayed for directing the respondents to consider case of the petitioner for appointment on the post of ACF and Forest Ranger Conservative Officer Grade-I.

6. Counsel appearing for the respondents submitted that in physical efficiency test conducted by the respondents, the chest of the petitioner was less than 'Normal 84 cm & Expanded 89 cm and prayed for dismissal of the writ petition.

7. Heard counsel for the parties and perused the record.

8. This writ petition filed by the petitioner deserves to be allowed, for the reasons; firstly, in pursuance to the order passed by this Court dated 05.08.2022, the Medical Board of AIIMS, Jodhpur measured chest of the petitioner and as per the Medical Board's opinion dated 22.08.2022 the chest measurement of the petitioner comes to 'Normal 88 cm & Expanded 93 cm' which is as per the Rules for appointment on the post of ACF and Forest Ranger Conservative Officer Grade-I, secondly; in my considered view opinion of the Medical Board is an independent opinion, therefore, petitioner is entitled for appointment on the post of ACF and Forest Ranger Conservative Officer Grade-I, lastly, action of the respondents denying appointment to the petitioner on the post of ACF and Forest Ranger Conservative Officer Grade-I on the basis of lesser chest is arbitrary and the same deserves to be quashed.

9. In that view of the matter, the writ petition filed by the petitioner is allowed, the respondents are directed to consider the case of the petitioner for appointment on the post of ACF and Forest Ranger Conservative Officer Grade-I as per his merit and

10. All the pending applications stand disposed of.

(INDERJEET SINGH),J

MG/47

