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

+ W.P. (C) 7448/2020, C.M. Appl. Nos.24879/2020 (of petitioner under Section 151 CPC for grant of appropriate directions) & 24880/2020 (for exemption)

NITIN SHARMA

.....Petitioner

Through: Mr. Ankur Chhibber,  
Mr. Anshuman Mehrotra, Mr.  
Harsh Dhankar & Mr. Nikunj  
Arora, Advocates

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Jitesh Vikram Srivastava  
(SPC) and Prajesh Vikram  
Srivastava, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**HON'BLE MS. JUSTICE ASHA MENON**

**ORDER**

% **06.10.2020**

**[VIA VIDEO CONFERENCING]**

**C.M. Appln. No.24880/2020 (Exemption from filing the fair typed copies of dim annexures and the documents which have less left and right side margin and documents which have small font size)**

1. Allowed, subject to just exceptions and as per extant rules.
2. The application is disposed of.

**W.P. (C) 7448/2020, C.M. Appln. No.24879/2020 (of petitioner under Section 151 CPC for grant of appropriate directions)**



3. The petitioner, a Assistant Sub-Inspector (ASI) (Pharmacist) in the respondents No. 1 to 3 Central Reserve Police Force (CRPF), has filed this petition (i) impugning the order dated 16<sup>th</sup> September, 2020 of the respondents No. 4 & 5 Central Govt. Health Scheme (CGHS), cancelling the candidature of the petitioner qua the recruitment process for appointment of Pharmacist (Allopathic) in CGHS; (ii) seeking mandamus directing the respondents to grant age relaxation to the petitioner for recruitment to the post of Pharmacist (Allopathic) in CGHS, as available to Central Govt. Civilian Employees; (iii) seeking mandamus directing the respondents to act in terms of **Krishan Singh Vs. Union of India** 2010 SCC OnLine Del 3775 (DB); and, (iv) seeking mandamus directing the respondents to appoint the petitioner to the post of Pharmacist (Allopathic) in the respondents No. 4 & 5 CGHS.

4. It is the case of the petitioner, (i) that pursuant to the selection process commenced vide advertisement dated 26<sup>th</sup> August, 2014 for recruitment of ASI (Pharmacist) for the Combatised Paramedical Staff in the respondents No. 1 to 3 CRPF, the petitioner, on 17<sup>th</sup> April, 2015 was appointed as ASI (Pharmacist) in the respondents No. 1 to 3 CRPF and joined on 15<sup>th</sup> May, 2015; (ii) that in the year 2018, applications were invited for appointment of Pharmacists (Allopathic) in the respondents No. 4 & 5 CGHS; (iii) though for the posts belonging to the unreserved category, only candidates between the age group of 18 to 25 years were eligible to apply but there was a provision for age relaxation for Central Govt. Employees, upto the age of 40 years; (iv) that the petitioner, who at that time was 28 years of age, after obtaining No Objection Certificate (NOC) from the respondents No. 1 to 3 CRPF, participated in the



recruitment process and though secured the overall rank of 25 in the merit list but was not appointed; (v) on making enquires, it was learnt that the age relaxation applicable to Central Govt. employees was stated to be not applicable to the employees of CRPF; (vi) that the petitioner represented on 23<sup>rd</sup> October, 2019, 6<sup>th</sup> November, 2019, 5<sup>th</sup> June, 2020, 16<sup>th</sup> June, 2020 and in response thereto his candidature was cancelled only on 16<sup>th</sup> September, 2020; (vii) that reliance is placed by the respondents No. 4 & 5 CGHS on Department of Personnel and Training (DoPT) Office Memorandum (O.M.) dated 27<sup>th</sup> March, 2012; and, (viii) however in **Krishan Singh** supra, the personnel of Defence Forces have also been held entitled to age relaxation and the petitioner, being in the CRPF ought to be similarly treated.

5. The counsel appearing on advance notice for both the respondents No. 1 to 3 CRPF and the respondents No. 4 & 5 CGHS, on enquiry states that he has no instructions and seeks time.

6. Finding that the petitioner was not issued an appointment letter by the respondents No. 4 & 5 CGHS and has been representing since 23<sup>rd</sup> July, 2019, we have enquired from the counsel for the petitioner about the aspect of delay of more than one year in approaching this Court. It has also been enquired, whether all the vacancies have already been filled up and when were the others, who were selected, issued appointment letters.

7. Counsel for the petitioner states that the candidature of the petitioner was cancelled only on 16<sup>th</sup> September, 2020 and there was no occasion to approach the court earlier since he was informed that his case was being considered by the Ministry of Home Affairs. It is argued that before the response to the representation and cancellation of the



candidature, the petitioner could not have approached the Court. With respect to other queries, it is stated that the appointment letters were issued in January and March, 2020 to others.

8. Issue notice.

9. Notice is accepted by the counsel for the respondents.

10. Counter affidavit including on the aforesaid aspect be filed within three weeks. If the counter affidavit is not produced, a responsible officer of respondents No. 4 & 5 CGHS in a position to answer our queries to remain present during the next hearing.

11. Rejoinder, if any be filed within one week thereafter.

12. List on 5<sup>th</sup> November, 2020.

13. No appointment in lieu of cancellation of the candidature of the petitioner on 16<sup>th</sup> September, 2020 be made till the next date of hearing.

**RAJIV SAHAI ENDLAW, J.**

**ASHA MENON, J.**

**OCTOBER 06, 2020**

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