

2025:PHHC:071938



**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

247

CWP-28635-2024 (O&M)
Date of Decision: 26.05.2025

SANJEEV KUMAR

... Petitioner

VERSUS

UNION OF INDIA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Wazir Singh, Advocate for the petitioner.

Mr. Sunil Kumar Sharma, Sr. Central Govt. Counsel
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the order dated 02.08.2024 (Annexure P-10) passed by respondent No.3 - Deputy Inspector General (Recruitment), Frontier Head Quarters ITBPF, New Delhi, (wrongly referred to as Deputy Director General in the memo of parties) whereby the request of the petitioner for medical re-examination and consideration of the medical certificate dated 12.06.2024 issued by the Senior Medical Officer, Government Hospital, Kaithal has been rejected.

Learned counsel for the petitioner contends that the respondent-ITBPF had issued an Advertisement for recruitment to the post of Head Constable (Motor Mechanic) and Constable (Motor Mechanic). The petitioner submitted his application against the same and appeared in the test/activity of PET/PST/Documentation where he was declared as qualified. The petitioner was then called for computer-based test scheduled to be held on 21.12.2023.

The petitioner appeared in the said test and qualified the same as well. Having qualified all tests, he was directed to appear for the medical test which was to be conducted on 03.06.2024. He was declared unfit due to possessing 'tattoos' on his right arm and forearm. In the appeal, a Review Medical Board was constituted on 04.06.2024 and again, he was declared unfit for the same reason(s).

Learned counsel for the petitioner contends that the petitioner had got the tattoos removed by way of laser technology and as per medical report issued by the Senior Medical Officer, Government Hospital, Kaithal, he is fit to render services as the aforesaid reason for declaring the petitioner unfit ceases to exist and there was no other disqualification ever recorded.

A notice was issued to the respondents whereupon a reply by way of counter affidavit has been filed. While not disputing the petitioner having qualified the standards prescribed by the respondent-Authorities, it is conceded he had been declared unfit by the Board of Medical Officers due to tattoos on his right arm and forearm. It is further submitted that twice over, the aforesaid disqualification had been noticed and as such, any subsequent change in the status would not entitle the petitioner to seek a re-medical examination and appointment.

I have heard the learned counsel for the respective parties and have gone through the documents and other material available on record with their able assistance.

A specific question has been put to the counsel for the respondents that since the cause for which the petitioner was declared medically unfit does

not survive, what would be a legally valid and sustainable reason to nonetheless disqualify a candidate who has otherwise been found eligible?

He responds that the process of recruitment having been completed, it would not be in the fitness of things to continue with the same process all over again.

A further question has been put as to what would have been the fate in case the petitioner would have got the said tattoos removed, by way of laser technology, prior to appearing in the medical examination?

He responds that the petitioner would, in such a circumstance, be eligible and be entitled to be considered for being offered appointment.

Having considered the fair response by the counsel for the respondents in this regard, I am of the opinion that notwithstanding that at the time of medical examination, the petitioner did sport a tattoo beyond the parameters prescribed by the respondents, however, once the removal of such a tattoo would not have been an impediment or a physical disability rendering a person/candidate unfit for serving with the respondent-Department, if it had been got removed earlier, the claim of such person/candidate ought not to be treated any differently and to be outrightly rejected solely on the ground he did not show an advance alertness to seek removal of those tattoos before appearing in the medical examination. Besides, the nature of the post is non-combatant and relates to the work of motor mechanic.

The career prospects of an individual, who got the tattoos on his right arm and forearm, which are undisputedly removed, should not be prejudiced to an extreme limit to become a lifelong impediment. This Court is

strengthened in its opinion from the response of the respondents that a candidate would no more be debarred from participating in the further selection processes and would have been considered fit even in the same selection process if he would have got the tattoos removed before the time of medical examination. I do not see any reason as to why the subsequent rectification and removal of the cause for declaring the petitioner unfit cannot be condoned on an equitable consideration and what material fundamental difference would it cause. The sporting of a tattoo is otherwise not pleaded by the respondents to be causing any other medical ailment. The only reason is that the same is not acceptable in a disciplined force. Once the cause has been eradicated, the consequences too need to be revisited.

The present writ petition is accordingly disposed of with a direction to the respondents to conduct a fresh medical examination of the petitioner from their Review Medical Board and in the event, the petitioner is found to be otherwise medically fit, appropriate steps for offering appointment be taken accordingly. **The petitioner shall appear before the Review Medical Board on 21.07.2025.** Further necessary action may be taken by the respondents within a period of three months thereafter.

In case the petitioner succeeds in getting an appointment, he shall, however, not be granted any benefit retrospectively and the benefits of seniority, pay and all other service benefits would enure in his favour only prospectively w.e.f. the expiry of the three months' period stipulated above.

Disposed of in above terms.

All other misc. application(s), if any, also stand(s) disposed of accordingly.

MAY 26, 2025.

Rajender

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*