

Date of Decision : 5th October, 2010

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PRASHANT GREWAL Petitioner
Through : Mr. S.N. Bhardwaj, Adv.

versus

UNION OF INDIA AND ORS. Respondents
Through : Dr. Sarabjit Sharma, Adv. with
Mr. Asit Tiwari, Adv.

CORAM :-**HON'BLE MS. JUSTICE GITA MITTAL****HON'BLE MR. JUSTICE J.R. MIDHA**

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| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | NO |
| 2. | To be referred to the Reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

GITA MITTAL, J. (Oral)

1. This writ petition is premised on a contention that the petitioner has been wrongly declared as medically unfit by the respondents. The petitioner places reliance on an examination conducted on 18th February, 2010 by doctor of All India Institute of Medical Sciences and finding him fit.

2. The respondents have explained that the petitioner, who had qualified the entrance examination of the National Defence Academy was initially found unfit on 23rd October, 2009 for all three services by the Air Force Central Medical Examination, Subroto Park, New Delhi for following reasons:-

- “1). Overweight;
- 2). Multiple Schmorl’s Nodes and
- 3) Esophoria breaking into Esotropia.”

3. The petitioner was assessed by the Senior Advisor, Base Hospital, Delhi Cantt. who had found him unfit for all the three services in view of these difficulties.

4. The petitioner’s Appeal Medical Board was conducted by the Specialist at the Base Hospital, Delhi Cantt. on 23rd November, 2009, It is noteworthy that the surgery and orthopedic specialists, had found that there was no evidence of Multiple Schmorl nodes. Further, the ophthalmologist had opined that the petitioner’s Esophoria was not breaking into Esotropia and, therefore, he was unfit for the navy and air force. The board had also opined that the petitioner was overweight and, therefore, unfit for all these services.

5. The petitioner had requested a review medical board which was conducted by the respondents on 6th January, 2010. The petitioner found unfit for all three services due to his suffering from the condition of Esophoria breaking into Esotropia. It is noteworthy that this examination of the petitioner was conducted by Senior Specialists in the field concerned.

6. The petitioner places reliance on his examination and declaration of fitness by civilian hospitals. The doctor, who conducted the medical examination in the civilian hospital by virtue of the nature of their duties, would not have the requisite

experience for making assessment of fitness for the defence forces and para military forces. It needs no elaboration that the norms for fitness requirements in civil post and defence services are different. Whereas a person may ordinarily be eligible for appointment in the civil post, he/she may not be eligible according to the rigorous medical standards which are required to be met so far as defence forces are concerned.

In this background, the reliance by the petitioner on a certificate which he has produced from the All India Institute of Medical Sciences is misplaced.

7. Our attention has also been drawn to the fact that the certificate relied upon by the petitioner has been given by a Senior Resident of the All India Institute of Medical Sciences and it is not clear as to whether the such Senior Resident possessed even the requisite qualification in the specialty is concerned.

8. Wing Commander R. Mohanti, Joint Director Medical Services of the Air Headquarter is present in the Court. He has explained that the condition which the petitioner has been found would seriously impact the candidate's vision and he would be unable to perceive fast moving objects. This is certainly a material consideration so far as the fitness for all the three forces i.e. the army, navy and air force, is concerned. In view of the opinion of the experts in the specialty concerned,

so far as the fitness of the petitioner is concerned, we find no justification or basis for overruling the same.

9. We also find that bald and unsustainable allegations have been made in the writ petition without any justification. The same were also unwarranted. The respondents have denied all the allegations made by the petitioner in the writ petition.

For the reason that the petitioner is a young boy and threshold of his career, we are not proceeding further on this aspect. We have otherwise found no merit in the writ petition and application which are hereby dismissed.

GITA MITTAL, J

J.R. MIDHA, J

OCTOBER 5, 2010

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