

Court No. - 34

Case :- WRIT - A No. - 14858 of 2023

Petitioner :- Shivam Singh

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Kranti Kiran Pandey

Counsel for Respondent :- A.S.G.I.,Paras Nath Rai

Hon'ble Ajit Kumar,J.

1. Heard Sri K.K. Pandey, learned counsel for the petitioner and Sri Paras Nath Rai, learned counsel for the respondent- Union of India.

2. Sri Paras Nath Rai, learned Advocate has obtained instructions in the matter which are taken on record, a copy whereof is also supplied to learned counsel for the petitioner.

3. From the perusal of the instructions filed today it is very much clear that during medical examination and review medical examination proper medical check up was carried out and, therefore, it cannot be said that Clause 29 of the Guidelines namely Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifle (Revised Guidelines as on May, 2015) was not complied with. Once in the medical examination and the review medical examination, petitioner has been found unfit in light of the Clause 29 of the Guidelines, 2015, now this Court cannot sit in appeal over and above the medical board opinion.

4. I find that once the review medical examination has been held after the first medical examination, then there is no question of this Court exercising power over and above the opinion rendered by the review medical board that consisted of expert doctors. This Court is not possessed with requisite expertise in the medical field so as to sit as an appellate authority over and above the opinion rendered by the review medical board. In the case of **Vivek Kumar vs. State of UP & ors passed in special Appeal Defective No.117 of 2020**, the Division Bench of this Court has held that thus: .

"11. In a case where a recruitment process has been carried out as per prescribed statutory rules whereunder a procedure has been prescribed for

testing the medical fitness of candidates by a duly constituted Medical Board, the report of the Medical Board is not to be normally interfered with, and that too, solely on the basis of a claim sought to be set up by a candidate on the basis of some subsequent report(s) procured by him from a private practitioner(s).

12. It is not the case of the petitioner that the decision of the Medical Board was arbitrary, capricious or not in accordance with the procedure under the relevant statutory recruitment rules. "

5. Even otherwise, law is well settled that "the opinion of the Medical Board or Review Medical Board is erroneous or capricious or vague and smacks of malafide, the Court should refrain from interfering with the opinion of Medical Board and Review Medical Board which is a body constituted of experts to assess the fitness of candidate as per the norms and standards prescribed in respect of fitness of a candidate who is supposed to work in the police force." [***Union of India v. Parul Punia, 2016 (2) ADJ 14***]. This judgment has been followed by a coordinate bench in the case of ***Ankit Kumar v. State of U.P. & Ors (Writ - A No. 5668 of 2021, decided on 03.08.2001)***. Recently in the case of ***Shahbaj Khan v. Union of India & Ors (Writ - A No. 15248 of 2023) decided on 13.07.2023***, I have referred to another later judgment of Division Bench in the case of ***Vivek Kumar v. State of U.P. & Ors passed in Special Appeal (Defective) No. 117 of 2020***, wherein it had been observed that "In a case where a recruitment process has been carried out as per prescribed statutory rules whereunder a procedure has been prescribed for testing the medical fitness of candidates by a duly constituted Medical Board, the report of the Medical Board is not to be normally interfered with, and that too, solely on the basis of a claim sought to be set up by a candidate on the basis of some subsequent report(s) procured by him from a private practitioner(s). It is not the case of the petitioner that the decision of the Medical Board was arbitrary, capricious or not in accordance with the procedure under the relevant statutory recruitment rules." Even I have followed this legal view recently in the case of ***Miss Neha v. State of U.P. & 4 Ors (Writ - A No. 10905 of 2023)***.

6. In view of the above, I do not find it to be a fit case to grant interference. Petition lacks merit and hence dismissed.

Order Date :- 20.11.2023

P Kesari