

Court No. - 34

Case :- WRIT - A No. - 18124 of 2023

Petitioner :- Om Prakash Jaiswal

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Rajesh Kumar Dubey

Counsel for Respondent :- A.S.G.I.,Gaurav Kumar Chand

Hon'ble Ajit Kumar,J.

1. Heard Sri R.K.Dubey, learned counsel for the petitioner and Sri G.K.Chand, learned counsel for the respondents.
2. By means of this petition filed under Article 226 of the Constitution, petitioner has prayed for a writ of certiorari to set aside the medical examination report and the review medical examination report dated 03.10.2023 and 08.08.2023 respectively on the ground that the petitioner participated in the written examination of Agniveervayu as the date and time fixed by respondents in which Cavalier Education Foundation , Sport College Road, Gorakhpur, U.P. declared the petitioner medically fit.
3. Sri G.K. Chand, learned Advocate on the contrary submits that the medical boards are duly constituted under the recruitment rules by the recruiting authority and the Board consists of panel of experts in medical field and once they expressed their view / opinion about the medical fitness of a candidate, that can be reviewed by another medical review committee, if so constituted by the recruiting authority and once that also agrees with the earlier view of the medical board, neither any further review is permissible in law, nor any other medical certificate obtained even from a medical officer of a Government Department would be of any relevance to enable the respondents to override the decision taken by medical review committee.
4. Having heard learned counsel for the respective parties and having perused the records and the medical examination reports, I find that a medical board consisting of panel of doctors initially rejected the candidature of the petitioner on the ground of Left Chronic Suppurative Otitis Media and thereafter, in the review medical examination again the similar view was expressed.
5. The 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 such above view of the matter, therefore, I decline to interfere with the medical examination by the medical board conducted in the matter as well as review medical examination

7. Petition lacks merit and is accordingly **dismissed**.

Order Date :- 30.10.2023

Sanjeev