

Court No. - 20

Case :- WRIT - A No. - 8054 of 2023

Petitioner :- Neha Kumari

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Deptt. U.P. Lko. And 4 Others

Counsel for Petitioner :- Abhishek Yadav, Deependra Pratap Singh

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties.

2. On 16.10.2023, the following order had been passed:

"1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.

2. Petition has been filed seeking to opposite parties to constitute a special Medical Board of qualified doctors to examine petitioner's aspect of having flat feet.

3. It is also submitted that petitioner had applied for post of Assistant Sub Inspector (Ministerial and Accounts) 2020-2021 but her candidature has been rejected on the ground of petitioner having flat foot. Review Medical Board has also opined the same.

4. Learned counsel for petitioner however has drawn attention to the certificate issued by the King George Medical College, Lucknow to submit that medical opinion of the doctor concerned of the said hospital clearly indicates that petitioner does not have any flat feet. It is therefore submitted that the opinion of medical and Review Medical Board are against the opinion given by doctor of Government Hospital.

5. In view of aforesaid, learned State Counsel is granted ten days' time to seek instructions in this matter.

6. List this case on 27.10.2023, as fresh. "

3. In pursuance thereof, learned State counsel has been provided written instructions dated 25.10.2023, which are taken on record and as per which, it has been stated that petitioner's case of flat foot (left leg) was found established not only by the Medical Board but by the Review Medical Board as well. The instructions also indicate the fact that recruitment process has been completed on 25.01.2023 with issuance of select list due to which jurisdiction of Recruitment Board has ended.

4. Instructions have also referred to judgment rendered by Hon'ble the Supreme Court dated 15.02.2022 passed in Civil Appeal No.1924 of 2010, Shankar Mondal versus State of West Bengal and others to submit that once a recruitment process has

ended, a candidate cannot be permitted to approach for redressal howsoever may be genuineness of grievance at any stage of time since there has to be a closure to the process of recruitment.

5. In the present case, it is evident that although petitioner was found to be suffering from flat foot by Medical as well as Review Medical Board but certificates of King George Medical College, Lucknow have been brought on record pertaining to petitioner clearly indicating that no flat foot was found in the test pertaining to petitioner. The statistic analysis report has also been brought on record to substantiate the same.

6. The judgment of Hon'ble the Supreme Court referred to in instructions is clearly inapplicable in the present facts and circumstances of the case since in the aforesaid case, petitioner had approached Courts for relief after 24 years of issuance of advertisement which was the main criteria for rejection of the appeal. In the present case, advertisement was issued on 23.03.2021 and petitioner has immediately approached this Court on being found unfit by Review Medical Board.

7. Documents on record also indicates the fact that petitioner has not been found to be suffering from the ailment of flat foot by a renowned Government Institution such as King George Medical College, Lucknow.

8. In view of Certificate issued by the aforesaid Institution, a case for grant of indulgence is made out particularly in view of the contradictory medical opinion.

9. Considering aforesaid fact, writ in the nature of Mandamus is issued commanding the opposite parties to constitute a Special Medical Board of qualified Doctors to re-examine the issue of petitioner allegedly suffering from flat foot. The said Medical Board shall also take into consideration the certificate and documentation issued by the King George Medical University, Lucknow. Such a Special Medical Board shall be constituted within a period of three weeks from the date a certified copy of this order is served upon opposite party no.2 i.e. Director General of Police, Uttar Pradesh, Lucknow.

10. In case petitioner is found not to be suffering from the aforesaid ailment, consequences shall follow.

11. Resultantly, petition succeeds and is **allowed**. Parties to bear their own costs.

Order Date :- 27.10.2023
Subodh/-