

Court No. - 20

Case :- WRIT - A No. - 8664 of 2022

Petitioner :- Jitendra Kumar

Respondent :- State Of U.P Thru. Its Prin. Secy. Deptt. Of Home And 6 Others

Counsel for Petitioner :- Vaibhav Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

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

2. The petitioner has raised a grievance for constituting a fresh medical board to conduct re-medical examination of the petitioner for the purposes of selection on the post of Sub Inspector, Civil Police in terms of the advertisement issued in February, 2021(24/02/2021). It has been stated in the petition that initially the petitioner was rejected by the Police Recruitment Medical Board on the ground of petitioner having disability in right hand elbow, whereafter the petitioner preferred an appeal in pursuance of which re-medical examination was also done to the petitioner where to the petitioner failed leading to the filing of the present writ petition.

3. It has been submitted that the Medical Board had found disability in right hand elbow of petitioner on the ground of earlier fracture in the year 2019 but has adverted to the Medical Certificate dated 17.11.2022 issued by the Regency Hospital, Kanpur and by King George's Medical University, U.P. Lucknow to submit that the aforesaid fracture was operated upon whereafter he has full function and strength in the said hand.

4. Upon consideration of submissions advanced by learned counsel for petitioner and perusal of material on record, it appears that the Medical and Review Medical Board recommendations declaring petitioner unfit for the aforesaid cause is contradictory to the medical opinion of a private hospital as well as a renowned Government Hospital such as King George's Medical University, U.P. Lucknow.

5. A Division Bench judgment of this Court in the case of ***Union of India through Ministry of Railway Board & Ors. versus Parul Punia; Special Appeal No.968 of 2015*** has vide its judgment and order dated 11.01.2016 indicated circumstances where Special or Review Medical Board can be

directed by this Court. While a word of caution has been indicated but at the same time powers of this Court under Article 226 of the Constitution of India have been held wide enough to comprehend the issuance of appropriate directions.

6. Considering the aforesaid facts and judgment, it is quite evident that recommendations of Medical and Review Medical Board are not in consonance with the Medical Report of the King George's Medical University, U. P. Lucknow.

7. 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 disability in right hand elbow. The said Medical Board shall also take into consideration the certificate and documentation issued by the King George's 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.3 i.e. Director General, Uttar Pradesh Police Recruitment & Promotion Board, Lucknow.

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

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

Order Date :- 28.10.2023

Subodh/-