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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 548/2014

AAKASH SHARMA

..... Petitioner

Through: Mr S.S. Pandey, Adv.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Ankur Chhibber, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MS. JUSTICE DEEPA SHARMA**

**ORDER**

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**17.08.2015**

The petitioner's grievance is that he has been denied appointment by the Indian Army on the ground of his disability, i.e., incomplete lumbarisation of SV-I.

Mr Pandey, appearing on behalf of the petitioner, contends that the petitioner had applied for the National Defence Academy and that the relevant guidelines/instructions, which deal with acceptable medical standards for recruitment to Indian Army, do not specifically spell out the condition said to be suffered by the petitioner, i.e., lumbarisation. Thus, an additional test was undertaken which led to the discovery of deformity. It is submitted that despite the petitioner's effort to secure justice, it has eluded him because the Review Medical Board also confirmed the initial diagnosis returned by the Medical Board with respect to his unfitness. Learned counsel endeavours to submit that the policy said to be applicable in this regard only speaks of Sacralisation Unilateral or Bilateral as a disqualification for recruitment to the Indian Air Force, but not to the Indian Army.

Mr Ankur Chhibber, learned counsel appearing for the respondent, submitted that in almost identical circumstances, this Court in ***Rohit Singh Baghel vs. UOI and Ors, W.P.(C) No.375/2007***, decided on 31.05.2007, had rejected a similar submission by a candidate who held himself out for recruitment to the Indian Air Force, but was rejected and deemed disqualified for Indian Army as well.

The relevant notification/guidelines spell out several conditions in a rather detailed and exhaustive manner. “Incomplete Sacralisation Unilateral or Bilateral” is clearly a disqualifying condition. No doubt, *prima facie*, the extract of the notification would indicate that it applies as a standard for the Air Force. However, given the previous judgment of this Court in *Rohit Singh Baghel (supra)*, where a Division Bench has occasion to deal with an identical issue and further the circumstances in the present case, where the Review Medical Board had occasion to consider the petitioner’s candidature after his physical examination, this Court is of the opinion that judicial review is not an appropriate mechanism to redress the grievance. The Court does not sit as a Merit Review Authority in such cases, all the more so since the recruitment is for the Armed Forces.

For the above reasons, this Court is of the opinion that no relief can be granted.

The writ petition is accordingly dismissed.

**S. RAVINDRA BHAT, J**

**DEEPA SHARMA, J**

**AUGUST 17, 2015**

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