

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24395 of 2016

Date of Decision:-28.11.2016.

Satish Kumar

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Ganesh Kumar Sharma, Advocate for the petitioner.

P.B. BAJANTHRI, J. (Oral)

1.) The petitioner has questioned the impugned decision dated 6.9.2016 vide Annexure P-8 by which the Review Medical Authorities have held that the petitioner is having female body structure.

2.) The petitioner was a candidate for recruitment to the post of General Duty Constable. He was subjected to medical examination on 8.6.2016. The Selecting Medical Authority found him that he is medically unfit due to the reason that he is suffering from “GYNACCOMASTIA BOTH SIDES”. Immediately, thereafter, the petitioner in order to cure the defect of “GYNACCOMASTIA BOTH SIDES” undergone operation on 17.6.2016. He was further subjected to Review Medical Examination in which the respondent-Medical Authorities have held that insofar as “GYNACCOMASTIA BOTH SIDES” is concerned, it is found that he is normal. However, they have found that he has female type body structure

and on this ground, he has been held to be medically unfit. Thus, the petitioner is aggrieved and has presented this petition.

3.) Learned counsel for the petitioner submitted that during Medical Examination, the Medical Authorities have not found that petitioner has female type body structure so as to reject his claim. It was for the first time in the Review Medical Examination they have found such defect. Therefore, scope of Review Medical Examination is beyond the Medical Examination conducted on 8.6.2016 wherein it is held that petitioner is suffering from "GYNACCOMASTIA BOTH SIDES". Hence, Review Medical decision is arbitrary and illegal. Further it was as on the date of Review/Appeal Medical he is normal in respect of "GYNACCOMASTIA BOTH SIDES"

4.) Heard learned counsel for the petitioner.

5.) Admittedly, the petitioner as on 8.6.2016 was suffering from "GYNACCOMASTIA BOTH SIDES". The same was got rectified on 17.6.2016 by undergoing operation. Thus, as on the date of Review Medical Examination, he was held to be normal. So far as defect relating to "GYNACCOMASTIA BOTH SIDES" whereas the respondent-Medical Authorities have added additional medical defect in the Review Medical Examination that petitioner has female body type structure, therefore, he is medically unfit. It is true that Review Medical Authorities have travelled beyond the scope of Review Medical Examination for the reasons that in the Medical Examination, the petitioner was found to be medically unfit in respect of "GYNACCOMASTIA BOTH SIDES". In view of these facts and circumstances what is required to be looked into is whether the

not medically fit on 8.6.2016. Therefore, Review/Appeal Medical scope is very limited to the extent that Medical Examination with reference to the Medical Examination held on 8.6.2016 whether Medical Board has rightly found the petitioner medically unfit with reference to “GYNACCOMASTIA BOTH SIDES” or not. Therefore, as on 8.6.2016 medical fitness is required to be taken into consideration. As on that date, the petitioner was not medically fit. If petitioner got operated for the defect and if the defect is cured subsequent to date of Medical Examination, the same cannot be taken into consideration for the reasons that candidate medical fitness is required to be examined with reference to the date of Medical Examination. Thus, the petitioner has not made out a case so as to interfere with Annexure P-8 dated 6.9.2016.

6.) Petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

November 28, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.