

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CWP No. 8093 of 2015 (O&M)
Date of decision:15.11.2016**

Sumit

.... Petitioner

Versus

Union of India and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Sajjan Singh Malik, Advocate for the petitioner.

Mr. P.K.Longia, Sr. Panel Counsel for UOI-respondents.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of medical examination dated 19.01.2015 and appeal medical examination dated 13.02.2015 (23.03.2015).

2. The petitioner is a candidate for the recruitment to the post of "X" (Technical) trades and Group 'Y' for Automobile Technician, GTI and IAF (S) trades Airman. (His candidature was required to be considered/examined only for Group 'Y'). After processing the application, he was called for medical examination on 19.01.2015 by the selecting authority. The Selecting authority have held him unfit in the medical examination with reference to para 3.11.1 and 4.3.15 relating to nasal septum. After selecting authority holding him medically unfit for the post, petitioner is stated to have approached the doctor. After due examination he was operated for deviated nasal septum on 31.1.2015. Thereafter, he requested for review medical. He was called for review medical on 13.02.2015 and it was postponed to 18.02.2015 due to administrative

reasons. On 18.02.2015 the petitioner was held medically unfit to that extent, on 23.03.2015 petitioner was communicated findings of the Appeal Medical Examination. Thus the petitioner aggrieved by the result of medical examination/appeal medical examination presented this petition.

3. Learned counsel for the petitioner submitted that petitioner has undergone operation relating to deviation nasal septum on 31.01.2015 therefore, as on the date of appeal medical examination dated 13.02.2015 (18.02.2015) the medical defect was rectified. Consequently, the review/appeal medical authority should have held that petitioner is medically fit. Therefore, decision of the review/appeal medical examination dated 18.02.2015(23.03.2015) vide Annexure P-4 is highly arbitrary and illegal and is liable to be set aside.

4. Per contra, learned counsel for the respondents submitted that the petitioner was subjected to medical examination on 09.01.2015 and he is held to be medically unfit due to deviation in nasal septum. In the review medical examination also there is a defect with reference to para 3.11.1(a) read with para 4.3.15. Thus, the petitioner has not made out a case so as to interfere with the review/appeal medical examination dated 18.02.2015 (23.03.2015) vide Annexure P-4.

5. Heard learned counsel for the parties.

6. Crux of the matter is that the petitioner was medically examined for the purpose of recruitment to the post in question. In the medical examination he was found to be unfit due to deviation in nasal septum on 19.01.2015. Such medical examination would be subjected to review/appeal medical examination. Scope of review/appeal medical examination is limited to the extent that whether the medical examination

held on 19.01.2015 is correct or not. In other words, review medical authority/appeal medical authority's scope is limited to whether fitness certificate given by the medical board as on 19.01.2015 insofar as petitioner is concerned is in order or not. Therefore, petitioner after medical examination on 19.01.2015 if he has got operated and the deviation nasal septum was rectified subsequent to the medical examination, the same cannot be taken into consideration for the purpose of review medical for the reasons that scope of review and appeal medical is limited to examination of medical examination held on 19.01.2015 in the present case. Even assuming that petitioner's deviation nasal septum has been rectified subsequent to 19.01.2015, the same cannot be taken into consideration for the purpose of selection and appointment to the post in question. Medical fitness is required to be taken as on the date of medical examination. Therefore, the petitioner has not made out a case so as to interfere with the Annexures P2 and P4.

7. Petition stands dismissed.

15.11.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No