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

+ **W.P.(C) 946/2016**

KRISHAN KUMAR GURJAR

..... Petitioner

Through: Mr. Ajit Kakkar, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Vikas Mahajan, CGSC with
Mr. Rohan Gupta, Mr. S.S. Rai, Mr. Nirvikar
Verma, Advocates and SG CDR Anand (Navy).

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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11.03.2016

1. On the last date of hearing, counsel for the petitioner had stated that the petitioner may be permitted to approach Dr. Rajendra Prasad Centre for Ophthalmic Sciences (AIIMS), New Delhi, to obtain a medical certificate from an Eye Specialist to the effect that he does not suffer from *Extra Ocular Muscle Paresis*. The petitioner was directed to approach the aforesaid Hospital for a fresh assessment of his eye condition with a direction that the diagnosis made by the respondents, as recorded on 17.08.2015, shall be produced by him before the Eye Specialist for his perusal and his report shall indicate that the said diagnosis has been perused.
2. Today, counsel for the petitioner hands over a Diagnosis report dated 14.09.2015, from Dr. Rajendra Prasad Centre for Ophthalmic Sciences

AIIMS, New Delhi, which does not indicate that the diagnosis made by the respondents, as recorded on 17.08.2015 was perused by the concerned Eye Specialist. The said report simply states “No Manifest Strabismus, no extra-ocular muscle paresis”.

3. Counsel for the respondents submits that the report dated 17.08.2015 in respect of the petitioner prepared at INS Chilka had referred to the deficiency, namely, “left lateral rectus paresis”, due to which the petitioner had been declared unfit. He submits that this aspect does not find any mention on the first page of the report dated 14.09.2015 handed over by the counsel for the petitioner, nor does the follow up that was undertaken on 03.03.2016 as noted on the second page, indicate so.

4. The terminology used in the follow up report dated 03.03.2016 being technical in nature, we are not in a position to correlate the same with the diagnosis of the petitioner as recorded in the earlier report dated 17.08.2015. In such circumstances, the respondents are directed to approach the Commandant, Army R&R Hospital, at Delhi with a request that a Review Medical Board be conducted in respect of the petitioner relating to his eye condition. The petitioner shall be intimated of the date and time on which he shall be required to present himself. The same shall be communicated to the petitioner through counsel within four weeks from today. The petitioner shall appear on the assigned date and time with all the relevant records. The respondents shall also ensure that the petitioner’s diagnosis dated 17.08.2015 and the report dated 14.09.2015 prepared by the Senior Resident at AIIMS are placed before the Review Medical Board for their perusal. The Review Medical Board shall forward its opinion directly to the respondents, who shall furnish a copy thereof to the petitioner.

5. Counsel for the petitioner undertakes that the petitioner shall be bound by the report that shall be submitted by the Army R&R Hospital, which shall be final.

6. The petition is disposed of.

7. It is clarified that the order passed above shall not be treated as a precedent in any other case as the same has been passed in the peculiar facts and circumstances of the case.

HIMA KOHLI, J

SUNIL GAUR, J

MARCH 11, 2016

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