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

+ W.P.(C) 717/2016

SHIVANK CHATURVEDI Petitioner

Through : Mr. M.K. Rawat with
Ms. Archana Ramesh, Advocates

versus

UNION OF INDIA AND ORS Respondents

Through : Mr. Ajay Digpaul with
Ms. Mamta, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **16.03.2016**

CM No. 9556/2016 (by the respondents u/Sec.151 CPC)

1. The present application has been filed by the respondents/UOI praying *inter alia* for modification of the order dated 3.2.2016.
2. On 3.2.2016, counsel for the respondents, who was appearing on advance notice, had stated that the petitioner has an equally efficacious alternate remedy of seeking a Review Medical Board, but he had directly approached the Court for his re-examination.
3. In view of the said submission made by the counsel for the respondents, counsel for the petitioner had stated that the petitioner would apply to the respondents for holding a Review Medical Board and accordingly, the writ petition was disposed of with directions issued that on

receiving the petitioner's representation, the respondents shall consider the same and call upon him to appear before the Review Medical Board to be held at the R&R Hospital, Delhi and if the opinion of the Review Medical Board favours the petitioner, then further steps shall be taken by the respondents in accordance with law.

4. Today, counsel for the respondents states that the submission that was made by him on 3.2.2016, is erroneous, as there is no provision in the advertisement in response where to the petitioner had applied to the Indian Navy for enrolment as a Sailor, for a Review Medical Board.

5. Notice. Counsel for the petitioner accepts notice and states that he is not aware as to whether the petitioner has submitted an application by now for seeking a Review Medical Board. However, he relies on the order dated 10.4.2015 passed by the Division Bench in **WP(C)No.3389/2015** entitled 'Vikash Kumar vs. UOI & Ors.' where the petitioner therein, who was seeking an appointment as a Sailor in the Indian Navy and his candidature had been turned down on medical grounds, was directed to appear before the ENT Specialist at the Army (R&R) Hospital, Delhi Cantonment for assessing his medical condition, despite the fact that there was no such procedure prescribed by the Navy.

6. We are of the opinion that even if there is no specific clause for a Review Medical Board in the advertisement issued by the respondents for inviting applications for the post of Sailors in the Indian Navy, having regard to the fact that the petitioner's candidature has been turned down on the ground that he is suffering from Chronic Septum Otitis Media (Right Ear), which he disputes and places reliance on certificates issued by two

Government hospitals, i.e., AIIMS and Safdarjung Hospital, Delhi, that are to the contrary, it is deemed appropriate to modify the order dated 3.2.2016 by directing the respondents to approach the Army (R&R) Hospital, Delhi for constituting a Board of doctors, that shall include an ENT Specialist, for conducting the petitioner's medical examination. The date and time for the petitioner to appear before the Board to be constituted by the Army (R&R) Hospital, Delhi shall be intimated by the respondents within four weeks and his medical examination shall be conducted within two weeks thereafter.

7. If the opinion of the Review Medical Board favours the petitioner, then the respondents shall enroll the petitioner as a Sailor in the very next batch. It has been agreed by the parties that the decision of the Review Medical Board shall be final and binding on them.

8. The application is disposed of.

Dasti to the respondents.

HIMA KOHLI, J

SUNIL GAUR, J

MARCH 16, 2016

sk/ap

