

\$~19

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

+ W.P.(C) 1372/2016 & C.Ms.5979-80/2016

MANDEEP CHAHAR Petitioner
Through: Mr. O.P. Aggarwal and Mr.
Deepak Agarwal, Advocates

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Vikas Mahajan, CGSC, with
Mr. Rohan Gupta and Mr. Rahul
Ray Malik, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **18.02.2016**

1. The present petition has been filed by the petitioner praying *inter alia* for issuing directions to the respondent-CISF to consider issuing an appointment letter to him for the post of a Head Constable (GD) in the sportsmen quota on the ground that he has cleared all the prescribed tests and his candidature could not have been turned down for medical reasons.

2. Learned counsel for the petitioner states that after clearing all the prescribed tests in the month of September, 2015, the

petitioner was required to undergo a medical examination from a Government Hospital. Accordingly, he had approached the Deputy CMO of a Government Hospital at Baghpat for his medical examination, who had prepared a report dated 16th October, 2015, opining therein that the petitioner is fit for duties. Armed with the said report, the petitioner had approached the respondent-CISF for a medical examination to be conducted at the CISF Hospital. Vide letter dated 5th December, 2015, CISF Hospital at Saket, New Delhi, opined that the petitioner is suffering from "*Lencoderma on glans penis and multiple hyper pigmented patches all over the body*" and referred him to the Skin Specialist for the further check up and opinion.

3. As a result, the petitioner approached Safdarjung Hospital at New Delhi for a check up and opinion, and the diagnosis given was that he was suffering from "*Hyper Pigmented Over Glans Penis*". However, the report concluded by stating that the petitioner's condition was not infectious. The petitioner again approached the CISF Hospital at Saket, New Delhi, with aforesaid report and in turn, was directed to approach Dr. Ram Manohar Lohia (R.M.L) Hospital, New Delhi, for a medical examination by the skin specialist.

4. On being examined by the Skin Specialist, at R.M.L. Hospital, a medical certificate dated 18th December, 2015 was issued stating *inter alia* that the petitioner's skin condition is because of some drug allergy the nature of which remains unknown and the same is non-contagious and will not hamper him in job/routine life. Thus, he was declared fit for the job.

5. The grievance of the petitioner is that despite two favourable reports from government hospitals, the Review Medical Board turned down his candidature on his review medical examination on the ground that as per the MHA Guidelines On Recruitment, Vitiligo and Congenital or Acquired Skin Anomalies, would be a cause for rejection.

6. Learned counsel for the petitioner submits that on receiving the aforesaid rejection order, the petitioner had submitted a representation to the respondents on 5th January, 2016, which remains unreplied.

7. Mr. Mahajan, counsel for the respondents, who appears on advance notice, submits that petitioner's representation dated 5th January, 2016, has been turned down by the respondent No.2 vide letter dated 12th February, 2016, a copy whereof has been handed over to the other side and also to us. The said letter states

that there is no provision to consider cases where the candidates have been declared unfit in a Review Medical Board. Learned counsel also hands over the Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles as issued on May, 2015, and particularly, draws attention of this Court to para No.8, which states as under: -

"8. Congenital or acquired anomalies of the skin such as nevi or vascular tumors that interfere with function, or are exposed to constant irritation are disqualifying. History of Dysplastic Nevus Syndrome is disqualifying."

8. It is stated on behalf of the respondents that the petitioner has been disqualified on the ground that he falls under para 8 of the aforesaid Guidelines. However, on examining para 8 of the said Guidelines, it is apparent that it relates to certain specific anomalies of skin, such as nevi or vascular tumors, and unless the petitioner was found to be suffering from any of the specific anomalies of the skin mentioned therein, his candidature could not have been turned down by the respondents by applying the said Guidelines.

9. It has also been enquired from learned counsel for the respondents as to whether the Review Medical Board, which had

submitted its report dated 9th December, 2015, included a Skin Specialist, to which the reply is in the negative.

10. In these circumstances, we deem it appropriate to direct the respondents to request the Army Hospital (R & R) at New Delhi to arrange for the petitioner to appear for his fresh medical examination before the Review Medical Board so that the report submitted can be considered in light of the captioned Guidelines.

11. The present petition is accordingly disposed of with the following directions: -

- (i). The respondents shall approach the Commandant of Army Hospital (R & R), New Delhi, with the request to constitute a Review Medical Board, which should include a Skin Specialist, for conducting the medical examination of the petitioner.
- (ii). The petitioner shall be informed in writing of the date and time fixed for his medical examination at the Army Hospital (R & R), Delhi.
- (iii). The petitioner's earlier medical reports and other relevant records shall also be furnished to the Review Medical Board.
- (iv). The petitioner shall be examined by the Board and a

report shall be prepared uninfluenced by the earlier reports and forwarded to the respondents.

(v). The respondents shall peruse the said report and reconsider the petitioner's case as per the findings returned therein and in terms of the captioned Guidelines.

(vi). The aforesaid process shall be completed within a period of six weeks, under written intimation to the petitioner.

12. If the petitioner is still aggrieved by the decision, that may be taken by the respondents, he shall be entitled to seek his remedies in accordance with law.

13. The present petition is disposed of along with the pending applications.

14. A copy of this order be given *dasti* to the counsel for the respondents for compliance.

HIMA KOHLI, J

SUNIL GAUR, J

FEBRUARY 18, 2016

S