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

+ **W.P.(C) 1786/2016**

DEEPAK SINGH

..... Petitioner

Through: Mr. Rakesh Kumar Yadav, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Dev P. Bhardwaj, CGSC with
Mr. P.C. Yadav, Senior Panel Counsel.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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17.05.2016

1. The present petition has been filed by the petitioner praying *inter alia* that the proceedings of the Review Medical Examination held on 11.01.2016 at BSF Base Hospital be quashed and the respondent No.3/BSF be directed to recruit him to the post of Constable (GD).

2. Learned counsel for the petitioner submits that the petitioner was one of the candidates selected by the respondent No.2/SSC for recruitment in the Paramilitary Forces, advertised in the year 2011. The petitioner was issued an appointment letter by the BSF on 27.07.2015 and he had joined his duties at the Chhawla Camp, New Delhi on 31.08.2015, on probation. Thereafter,

the respondent No.3/BSF had conducted a Re-Medical Examination of the petitioner and as per the diagnosis dated 11.01.2016, it was noted that he suffers from hypertension as his blood pressure was found to be fluctuating. The respondent No.3/BSF had then referred the petitioner to the Medical Specialist at Safdarjung Hospital, New Delhi for an opinion. The petitioner had reported to the Safdarjung Hospital on the very next day, i.e., on 12.01.2016 and his blood pressure was found to be normal, i.e., 120/90. Counsel for the petitioner submits that without taking note of the said diagnosis, the respondent No.3/BSF issued a letter dated 27.01.2016, informing the petitioner that he was found unfit in the Review Medical Examination held on 11.01.2016. Aggrieved by the said decision, the petitioner has filed the present petition.

3. On the last date of hearing, Mr. Bhardwaj, learned counsel for the respondents had sought time to obtain clear instructions from the Department in respect of the status of the petitioner and the reason for turning down his candidature on medical grounds despite the report forwarded by Safdarjung Hospital, New Delhi.

4. Today, Mr. Bhardwaj states that there are no clear instructions as to the reason for turning down the petitioner's candidature after he had been

cleared for hypertension by Sardarjung Hospital, New Delhi. He submits that to obviate any scope of the petitioner being on medication for treatment of hypertension, which would camouflage the results, he would have to stay at a place designated by the respondents for a period of one week whereafter they shall conduct his fresh medical examination for hypertension.

5. Counsel for the petitioner expresses an apprehension that once the respondent No.3/BSF having turned down the petitioner's candidature on the ground that he is medically unfit and having arbitrarily declined to consider the report given in his favour by the Safdarjung Hospital, New Delhi, if he is admitted in a BSF Hospital, they may once again disqualify him without looking into the merits of his case.

6. To allay the aforesaid apprehension, it is deemed appropriate to direct the respondent No.3/BSF to approach the Army Hospital (R&R), New Delhi, with a request to admit the petitioner for at least one week or a timeline considered necessary so that the effect of the medication, if any, that he might be taking for controlling hypertension, wears off and a clear picture emerges with regard to his medical condition.

7. The respondent No.3/BSF is directed to give a written intimation of the date and time, on which the petitioner shall present himself at the Army

Hospital (R&R), New Delhi, for being admitted for a period of one week or more/less, as considered necessary. The report of the Army Hospital (R&R) shall be forwarded directly to the respondent No. 3/BSF, who shall intimate the result thereof to the petitioner. In the event the said report clears the petitioner of any hypertension/suspected hypertension, then the respondent No.3/ BSF shall take immediate steps to reinstate him with all the consequential benefits.

8. The petition is disposed of.

HIMA KOHLI, J

ASHUTOSH KUMAR, J

MAY 17, 2016

rkb/ap