

\$~2.

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

+ **W.P.(C) 3209/2016**

ACHAL 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 SUNIL GAUR

ORDER

%

02.06.2016

CM APPL. 22483/2016 (by the petitioner for early hearing)

1. This application has been filed by the petitioner praying *inter alia* for an early hearing of the writ petition.
2. For the reasons stated in the application, the same is allowed. The hearing in the petition is advanced to today.
3. The application is disposed of.

W.P.(C) 3209/2016

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 the BSF Base Hospital be quashed and the respondent No.3/BSF be directed to recruit him as a 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, for posts advertised in the year 2011. The petitioner was issued an appointment letter by the respondent No.3/BSF in August, 2015 and he had joined his duties at the Chhawla Camp, New Delhi on 30.09.2015, as a probationer. However, the petitioner was declared unfit in the Review Medical Examination conducted by the respondent No.3/BSF on 27.10.2015, on the ground that he is suffering from “*hydrocele(Lt.)*”.

3. Aggrieved by the said report, the petitioner had approached the Government Hospital, namely, Ursula Horsman Memorial Hospital, Kanpur Nagar for a report, wherein the CMO had recorded that the petitioner was operated on 2.11.2015 at Ursula Horsman Memorial Hospital, Kanpur for “*hydrocele(Lt.)*” and was declared medically fit for the said post. Armed with the aforesaid document, the petitioner had approached the respondent No.3/BSF for seeking a Review Medical Board, which was conducted on 11.1.2016, wherein he was again declared unfit for the reason that he had been operated for “*hydrocele (Lt)*”.

4. Though the petitioner has not filed the report of the Review Medical Board held on 11.1.2016, counsel for the respondents has handed over the documents pertaining to the petitioner, and states that ordinarily, the respondents ought to have waited for a period of six months from the date of the petitioner’s surgery, for re-examining him. He states that now that the period of six months, reckoned from the date of his surgery are over, the respondents may be permitted to approach the Army R&R Hospital with a request for fixing a date and time for re-examining the petitioner.

5. In view of the aforesaid submission, the present petition is disposed of

with directions issued to the respondent No.3/BSF to approach the Army R&R Hospital, Delhi within two weeks for the petitioner's re-examination. The respondents shall give a written intimation of the date and time fixed, for the petitioner to present himself at the said Hospital along with all the relevant documents. A report shall be submitted by the Army R&R Hospital, Delhi directly to the respondent No.3/BSF within three weeks from the date of the petitioner presents himself. The respondent No.3/BSF shall give a written intimation to the petitioner of the decision taken in respect of his medical condition. If the petitioner is found medically fit by the Army R&R Hospital for the condition referred to above, then the respondents shall reinstate him in service from the date of his initial appointment with all the consequential benefits.

6. It is made clear that the report of the Army R&R Hospital shall be final and binding on both the parties.

7. The writ petition is disposed of.

DASTI to the counsel for the respondents.

HIMA KOHLI, J

SUNIL GAUR, J

JUNE 2, 2016

rkb