

\$~6.

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

+ **W.P.(C) 3205/2016**

ASHISH KUMAR

..... Petitioner

Through: Mr. Rakesh Kumar Yadav, Advocate
with petitioner in person.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Dev P. Bhardwaj, CGSC

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

%

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 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, who was selected by the respondent No.2/SSC for recruitment in the Paramilitary Forces, for posts advertised in the year 2011. The petitioner was duly issued an appointment letter by the respondent No.3/BSF on 17.09.2015 and he had joined his duties at the Chhawla Camp, New Delhi on 26.10.2015, as a probationer. However, he was declared unfit in the medical examination conducted by the respondent No.3/BSF on 28.10.2015, on the ground that he is “*having circular depressed Scar about*

dia 06 cm 8 Depth about 02 CM at mid Line lumboscaral Region”.

3. Counsel for the petitioner states that aggrieved by the said report, the petitioner had approached the Safdargunj Hospital, New Delhi for verifying his medical condition and he was advised to undergo a MRI (LS Spine). The report of the Orthopaedic doctor at Safdarjung Hospital has been enclosed at page 45 of the paper book.

4. Counsel for the petitioner states that the original MRI report of the petitioner along with the original diagnosis received from Safdarjung Hospital are available with his client and he shall produce the same as and when directed.

5. Counsel for the respondents states that the BSF Hospital, R.K. Puram, New Delhi is not equipped with specialists and it would be appropriate if the respondents are permitted to approach the Army R&R Hospital, Delhi for the petitioner to be re-examined there by an orthopaedic doctor along with his MRI report.

6. Accordingly, 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 conducting 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 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.

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

8. The writ petition is disposed of.

HIMA KOHLI, J

ASHUTOSH KUMAR, J

MAY 17, 2016

sk

