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

+ **W.P.(C) 3202/2016**

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..... Petitioner

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

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
17.05.2016

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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 the 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 on 17.09.2015 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

28.10.2015, on the ground that he is suffering from “*testicular swelling (Lt.)*”.

3. Aggrieved by the said report, the petitioner had approached the Government Hospital at Raebareli, UP for a report, wherein the CMO had recorded that the petitioner was operated on 3.11.2015 at the District Hospital, Raebareli and he was not suffering from any Testicular Swelling (Lt.) and was medically fit for the said post. Armed with the aforesaid document, the petitioner 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 swelling and scrotum was still present*”.

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 at the end of the period of six months, reckoned from the date of his surgery, 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 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.

HIMA KOHLI, J

ASHUTOSH KUMAR, J

MAY 17, 2016
sk/mk