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

+ **W.P.(C) 4260/2016**

VICKY

..... Petitioner

Through : Mr. Ankur Chibber, Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Through : Ms. Bharti Raju and Mr. Chetan Lokur,
Advocate with Surgeon Commander
Anand Neelakantan and
Lt. Vikrant Singh.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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13.05.2016

1. The present petition has been filed by the petitioner, who had applied for the post of a Sailor in the Indian Navy in the year 2015, praying *inter alia* for quashing the order dated 20.2.2016, whereunder he has been found medically unfit for enrolment in the Navy on two counts, namely, *ectopic thyroid* and *venous humangioma* and as a result, his candidature was turned down.
2. Counsel for the petitioner submits that after the petitioner had returned from INS Chilka, Orissa, he approached an ENT Specialist at Safdarjung Hospital, New Delhi and as per his diagnosis at page 17, he does not suffer from *ectopic thyroid* and *venous humangioma*.
3. Counsel for the respondents, who appears on advance notice, hands

over documents pertaining to the petitioner and submits that at the time of his primary medical examination at Ambala, he was found fit, but subsequently, on reporting to INS Chilka, his provisional diagnosis was to the following effect :

“11. *PROVISIONAL DIAGNOSIS :*

(01) *TWO SWELLINGS ON (LT) SIDE OF TONGUE*

(02) *HYPER EXTENSION OF ELBOW JOINTS.*”

4. Based on the aforesaid provisional diagnosis, the petitioner was referred to the Surgeon Commander, who had confirmed that he suffers from *ectopic thyroid* and *venous humangioma*, but he was found fit as far as the indication of *hyperextension of elbow joints* was concerned. It is submitted that based on the first two disabilities, the petitioner had to be declared unfit for service.

5. Counsel for the petitioner submits that there is no procedure for a Review Medial Board in the Indian Navy and in view of two contrary reports, one by the ENT Specialist, Safdarjung Hospital, Delhi and other by the Surgeon Commander at INS Chilka, Orissa, it would be appropriate if the respondents are directed to approach the R&R Hospital, Delhi for conducting a Review Medial Board in respect of the petitioner.

6. Having regard to the two reports, one submitted by the respondents where the Surgeon Commander has declared the petitioner unfit for recruitment on account of suffering from *ectopic thyroid* and *venous humangioma* and the other by an ENT Specialist at a government hospital, namely, Safdarjung Hospital, Delhi, who has clearly stated that there is no evidence of *ectopic thyroid* and *venous humangioma*, we deem it appropriate

to direct the respondents to approach the R&R Hospital, Delhi with a request that a Review Medical Board be constituted in respect of the petitioner relating to the aforesaid two conditions. The petitioner shall be intimated of the date and time when he is required to present himself before the Review Medical Board. The same shall be communicated to him through his counsel within a period of four weeks from today. The petitioner shall appear before the Board on the fixed date and time.

7. The respondents shall ensure that the petitioner's medical records are forwarded to the Review Medical Board for their perusal. The Review Medical Board shall submit its report directly to the respondents, with a copy thereof furnished to the petitioner. Both the parties shall be bound by the report of the Review Medical Board, R&R Hospital, Delhi, which shall be treated as final.

8. It is clarified that the aforesaid order has been passed in the peculiar facts and circumstances of the present case and will not be treated as a precedent in any other case.

9. The writ petition is disposed of.

HIMA KOHLI, J

SUNIL GAUR, J

MAY 13, 2016

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