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

+ **W.P.(C) 9239/2016 & CM Nos. 37335-37336/2016**

VIKASH AND ORS

..... Petitioners

Through: Mr.Siddharth Mittal & Mr.K. Singhal,
Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Ravi Prakash, CGSC with
Mr.Dhruv Tripathi, Advs.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **24.10.2016**

CM No. 37335/2016

Exemption allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 9239/2016 & CM No.37336/2016

This writ petition is directed against the medical disqualification of the petitioners herein for the posts of selection of Airmen in the Indian Air Force.

It appears that the four petitioners were required to undergo a medical test and ECG was conducted and they were declared unfit on the ground of CVS review and ECG Abnormality. The petitioners appealed against the

findings of the Medical Board, after which Appeal Medical Board was constituted. The Medical Board also rejected these candidates on the ground of ECG Abnormality.

Learned counsel has drawn our attention to the letters whereby the petitioners were directed to appear for examination before the Appeal Medical Board. The letters which were identical *inter alia* provided that the petitioners would be subjected to **complete medical examination afresh** and not merely for the disability/disease for which they had been declared unfit. They were also informed of the possibility of rejection in the event of detection of any fresh disability/disease not detected earlier. It appears that there is no further right of appeal from the decision of the **Appeal Medical Board**.

The petitioners duly appeared before the Appeal Medical Examination pursuant to the direction. The records of the medical examination have been produced in the case of the petitioners except for petitioner No.3. In case of petitioner No.3, it is clear that medical report of some other Naveen with a different roll number, different address has been produced. From the records, it is patently clear that the Appeal Medical Board did not conduct

an ECG, even though the candidates were rejected on the ground of ECG abnormality. It is argued that the findings being on the basis of ECG report which in itself is authentic document and there being no dispute with regard to the functioning ECG machine, there was no need for any further ECG.

The letter requiring the petitioners to appear before the Appeal Medical Board clearly stated that they were to be subjected to **complete Medical examination afresh**. This would necessarily mean conducting a fresh ECG as well. The medical disqualification by the Appeal Medical Board without proper examination of the candidates concerned by conducting an ECG, cannot be sustained.

The writ petition as well as application are disposed of by directing the respondent-authorities to refer the candidates to the Army Research and Referral Hospital in New Delhi for constitution of a board of experts which shall include a Cardiologist, to assess the medical condition of the petitioner after conducting ECG on them. Needless to mention that the Medical Board may conduct such other tests as may be deemed appropriate.

The selection will abide by the result of the report of the Medical Board constituted by the Army Research and Referral Hospital. It is

submitted on behalf of the respondents that in the event the petitioners are found fit, they will duly be accommodated. In view of such submission we do not deem it necessary to fix a deadline for the examination particularly in view of the impending holidays. It is however expected that the Medical Board will be constituted as expeditiously as possible. Needless to mention that declaration of the petitioners or any of them as being medically fit would not in itself render them eligible for appointment if they are otherwise ineligible.

INDIRA BANERJEE, J

ASHUTOSH KUMAR, J

OCTOBER 24, 2016
gm

