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

+ **W.P.(C) 9750/2016**

KAUSHAL YADAV

..... Petitioner

Through Mr. Ram Naresh Yadav, Advocate.
versus

UNION OF INDIA AND ANR

..... Respondents

Through Mr. Vikas Mahajan, CGSC along
with Mr. S.S. Rai & Mr. Amit Mehta,
Advocates.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **08.11.2016**

CM Nos. 38964/2016 & 38965/2016 (Exemption)

Exemptions allowed, subject to all just exceptions.

The applications are disposed of.

W.P.(C) 9750/2016

1. This writ petition is directed against the disqualification of the petitioner for recruitment to the post of Airman in the Indian Air Force on medical grounds.
2. By an advertisement being Advertisement No.DAVP 10801/13/0037/1516 published inter alia in the 'Employment News' dated 7th November 2015, applications were invited for the posts of Airmen of the categories specified in the said advertisement. The petitioner applied

pursuant to the aforesaid advertisement and was allotted the Roll No.1604138806 against registration number 15034160689.

3. It appears that the petitioner successfully cleared the Written Test, the Physical Endurance Test and the Group discussion. All the three tests were conducted in Barrackpore in the state of West Bengal.

4. Thereafter, the petitioner was called for the Medical Test, which was held at the No.4 Airmen Selection Centre at Barrackpore. The petitioner was examined by a Medical Board but was declared medically unfit on two grounds. The Medical Board found that the petitioner was unable to extend both knees fully. Secondly, the Medical Board found that the petitioner suffered from the ailment of Gynaecomastia.

5. In accordance with the rules, the petitioner appealed against the findings of the Medical Board, whereupon an Appeal Medical Board was constituted and the petitioner was examined by a qualified Orthopaedic Surgeon. The Appeal Medical Board also found that the petitioner was unable to extend both knees fully, even though, the petitioner was cleared of the ailment of Gynaecomastia.

6. The Medical Board as also the Appeal Medical Board constituted of qualified doctors have found the petitioner medically unfit. The petitioner has relied on a medical report of Din Dayal Upadhyay Hospital, Hari Nagar, New Delhi; along with a report of Noble Diagnostic Centre stating that there was no obvious bony lesion seen. Bilateral knee joints were normal. Joint spaces were maintained. Articular surfaces were smooth and the impression was that there was no significant abnormality.

7. It is not for this Court exercising its extraordinary jurisdiction under Article 226 of the Constitution of India to embark upon a comparative assessment of the reports of different medical institutions and decide which opinion is correct. The fact remains that the Medical Board comprising of qualified doctors as also the Appeal Medical Board comprising doctors including an Orthopaedic Surgeon have found that the petitioner was unable to extend both knees fully. The report was produced before us and we have perused the report. We are of the view that our interference in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India is not necessary. The writ petition is, therefore, not entertained and the same is rejected.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

NOVEMBER 08, 2016

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