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

+ W.P.(C) 10652/2016

AKSHAY KUMAR

..... Petitioner

Through

Mr.Akshat Srivastava and
Mr. Sarbajet Dutta, Advocates

versus

UNION OF INDIA & ORS

..... Respondent

Through

Ms.Monika Arora, CGSC with
Mr.Arbind Sharma, officer for
respondents/UOI

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **09.11.2016**

1. This writ petition is directed against the disqualification of the petitioner, a candidate seeking recruitment to the post of Constable/General Duty in the Border Security Force, Central Industrial Security Force or the Central Reserve Police Force on medical grounds.

2. Pursuant to an order dated 14th July, 2014 passed by a Division Bench of this Court in WP (C) No. 5663/2013 (Deepak Kumar Singh and Ors. vs. Union of India and Ors.) heard with several other writ petitions, the petitioners were considered for recruitment.

3. The petitioner was called for examination by a Medical Board but was declared unfit on the ground of an enlarged heart. A Review Medical Board was constituted at the request of the petitioner. The Review Medical Board comprised a qualified cardiologist. The Review Medical Board also declared the petitioner unfit on the same ground. The diagnosis is apparently based on diagnostic reports.

4. The petitioner has relied on a certificate of a consultant cardiologist giving an opinion to the contrary. It is, however, not for this Court exercising its extra ordinary writ jurisdiction to decide which opinion is correct, the opinion of Dr. Sandeep Kumar, DM (Cardio), Consultant Cardiologist, I.G.I.C, Patna or the Doctors who constituted the Medical Board/Review Medical Board. Suffice it to mention that the Medical Board as also the Review Medical Board have concurred in their finding that the petitioner suffers from cardiological disorder. The interference of this Court is not called for in proceedings under Article 226 of the Constitution of India.

5. Counsel appearing on behalf of the respondents had also taken a preliminary objection to the territorial jurisdiction of this Court to entertain the writ petition and also taken objection to the maintainability of the writ petition on the ground of delay.

6. Having regard to our finding on merits, we need not go into the question of delay in filing the writ petition. So far as territorial jurisdiction is concerned, the medical examination may have taken place in the State of West Bengal. However, the selection as a whole

is conducted by the Staff Selection Commission which is located in New Delhi. Moreover admittedly the petitioner has been considered for recruitment along with the others pursuant to an order passed by this Court in 2014 which has assumed finality. We are, therefore, of the view that this Court has territorial jurisdiction to entertain the writ petition. The writ petition is, however, dismissed on merits.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

NOVEMBER 09, 2016

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