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

+ **W.P.(C) 10471/2015**

YOGESH KUMAR

..... Petitioner

Through: : Mr. Ankur Chibber, Advocate

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: : Ms. Archana Gaur, Advocate with
Comm. (JG) N. Prabhakar.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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09.03.2016

1. The present petition has been filed by the petitioner praying *inter alia* for quashing the order dated 17.8.2015, passed by the respondent No.3 declaring him unfit for the post of Navik in the Indian Coast Guard on the ground that he is underweight.

2. The petitioner had successfully qualified for enrolment to the post of Navik in the Indian Coast Guard on 7.4.2015. On 14.7.2015, he had passed the written examination which comprised of a screening test, main test and physical efficiency test. The petitioner was called for his final medical examination and training at INS, Chilka, Odisha and was directed to report on 17.8.2015. On 17.8.2015, at the time of his examination, when the petitioner was found underweight, he was declared unfit for appointment.

3. Mr. Chibber, learned counsel for the petitioner states that the petitioner had travelled all the way from District Nagaur, Rajasthan to INS, Chilka, Odisha which took about two days for presenting himself before the respondent on 17.8.2015 and in this duration, he was suffering from high fever and diarrhoea due to which, he had lost weight and was declared underweight. He submits that subsequently, the petitioner had recovered from fever and diarrhoea, etc., and had regained his weight as is reflected from the noting dated 24.9.2015 in his OPD card issued by Safdarjung Hospital, Delhi, which mentions his weight as 57 kg on 24.9.2015. The petitioner seeks directions to the respondents to reconsider his case for appointment on the ground that he is presently not underweight.

4. On the last date of hearing, during the course of arguments, counsel for the respondents was directed to file an additional affidavit, apart from the counter affidavit already filed and clarify therein as to what exactly was the petitioner's weight when he had reported at the INS, Chilka, Odisha on 17.8.2015. As per the said affidavit, the petitioner had weighed 48 kg., without shoes, on 17.8.2015. For enrolment in the Coast Guard, the ideal weight required for an 18 to 22 years old candidate with the height of 176 cm, is 62.5 kg. and the acceptable range of the actual weight is $\pm 10\%$ of the ideal weight, i.e., 55.25 to 68.75 kg. However, on 17.8.2015, the petitioner's weight was found to be less by 7.25 kg which was after giving him the benefit of 10% of the acceptable variation. It was in this background that the petitioner's case was rejected. The original records produced by the counsel for the respondents bear out the averments made in the additional affidavit. Moreover, no documents have been filed by the petitioner to substantiate his claim that he was suffering from fever and diarrhea at the

relevant time, which had resulted in a loss of weight of 7½ kg over a short span of two days.

5. Counsel for the respondents clarifies that the request of the petitioner for seeking review of his medical condition was declined as there is no provision for holding a review medical board in the Indian Coast Guard and even if the said request is considered by the Court, fact of the matter is that by now, the candidates who had participated in the examination with the petitioner, have almost completed their training that had commenced in August, 2015 and it would be too late in the day to consider the petitioner's request for a review medical board.

6. In any case, having regard to the age of the petitioner and the fact that more opportunities will arise in the future for him to apply for the same post, including in the current year 2016, as informed by the counsel for the respondents, we are not inclined to direct the respondents to hold a review medical board for the petitioner at this belated stage. The present petition is accordingly dismissed, while leaving the parties to bear their own expenses.

HIMA KOHLI, J

SUNIL GAUR, J

MARCH 09, 2016

sk/mk