

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

231

**CWP-22579-2014 (O&M)
Decided on 23.01.2017**

MANI RAM

....PETITIONER

VS

STATE OF HARYANA & OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Rakesh Nagpal, Advocate
for the petitioner.

Mr. R.K.Doan, AAG, Haryana.

AJAY TEWARI, J.(Oral)

By this petition, the petitioner has prayed that a special medical examination to be held. As per admitted case, the petitioner was selected for the post of Constable but between the selection and the medical examination he suffered an accident. Consequently, there was some defect in one of his eye. Resultantly, he was rejected in the medical Board. Thereafter he sought permission from the competent authority to get himself re-examined from the Board as per Rules 3.5-A. At that time also there was defect in the vision and therefore he was not selected. In the circumstances, the present petition has been filed on the ground that the petitioner has been fully cured and is therefore praying that respondent be directed to conduct another medical examination.

In reply, it has been stated that as per the statutory rules, the petitioner was given one opportunity to prove his medical fitness and failing which the person who was on the waiting list has been appointed

against him. Learned counsel for the petitioner has argued that Rule 3.5-

A envisages two medical Board after the original Medical test. Rule 3.5-

A is as follows:

“The appointing authority shall have power to require a Government employee to appear before a Medical Board to test his physical fitness for the efficient discharge of the duties of his post, whenever, it has reason o believe that the Government employee is not physically fit to carry out his duties satisfactorily. The Government employee concerned shall, however, have a right of appeal to an appellate Medical Board, against the decision of the first Medical Board.”

In my opinion, what Rule 3.5-A provides that if a candidate is declared medically unfit on the first test he can ask for retest by way of appeal and if he does not clear it again there is no provision for a third test. Moreover another person having been appointed from the waiting list, third party rights have now intervened.

In these circumstances of the case no relief can be granted to the petitioner.

Petition stands dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

23.01.2017
anuradha

(AJAY TEWARI)
JUDGE

-

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No