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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 665/2017 & CM No. 3103/2017

ROHITASHWA GURJAR THROUGH HIS FATHER
AND NATURAL GUARDIAN SHRI JAYRAM
GUJAR

..... Petitioner

Through: Mr. Arvind Chaudhary,
Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Nawal Kishore Jha with
Sgt. D. Srivastava (Air Force)

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. PRATHIBA M. SINGH

ORDER

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26.05.2017

The petitioner - Rohitashwa Gurjar having applied for selection for the post of Airman Group X (Tech) in the Indian Air Force, was examined by the Medical Boarding Centre Station, Medicare Centre on 22.07.2016, and declared "unfit" for the following reasons:-

- “(i) *Dropping Shoulder (Lt)*
- (ii) *B/L Middle & Little Finger Deformity*
- (iii) *ECG Abnormality (T Wave Inversion Inferior and Lateral Leads, Sinus Tachycardia)*
- (iv) *X-Ray abnormality (Fibrocalcific Lesions all Zones).”*

2. A medical unfitness certificate was issued and furnished.
3. The petitioner preferred an appeal and was examined by the Appellate Medical Board consisting of specialist doctors. On evaluation, the Appellate

Board overruled the reasons for unfitness at serial nos. (i), (ii) & (iii). However, the Appellate Board affirmed the fourth condition concluding that the petitioner was suffering from “*Fibro calcific lesion BMZ, BLZ*”. The petitioner was declared unfit on this account.

4. The opinion of the Appellate Medical Board is final. There is no statutory right for further appeal or another examination.

5. Learned counsel for the petitioner submits that the petitioner should have been subjected to complete medical re-examination by the Appellate Medical Board, in terms of letter of the respondent dated 22.07.2016, and the examination should not have been restricted to the disability/condition for which he was declared unfit.

6. The contention that the expert opinion should be rejected with the direction that there should be a complete or full afresh medical examination is fallacious and untenable. The stipulation to the said effect is an enabling clause which entitles the Appellate Medical Board to do complete medical re-examination or fresh examination. However, this must be left to the wisdom and judgment of the Appellate Board. What is mandated and must be examined and opined afresh by the Appellate Board are conditions and grounds for rejection as unfit. The Appellate Board must independently apply their mind, uninfluenced by the opinion and findings under challenge. There should be complete appraisal. Any direction for complete or fresh medical examination of the person/candidate may not be warranted as suggested by the counsel for the petitioner, for it would be a futile and unnecessary exercise when a candidate has been found to be unfit on a specific account. All cases need not put in a straitjacket.

7. To satisfy whether or not the petitioner had undergone a fresh and independent medical examination by the Appellate Medical Board, the respondents were asked to produce the relevant file. The file has been produced and a photocopy has been kept on record. Having examined the file we are satisfied that the petitioner was examined by the specialist, who had affirmed that he was suffering from ***“Fibro calcific lesion BMZ, BLZ.***

8. Learned counsel for the petitioner submits that the Appellate Medical Board should have taken a fresh X-Ray and not relied upon the earlier X-Ray. The submission should be rejected. The X-Ray taken in July, 2016 was examined by the specialist member of the Appellate Board on 08.09.2016, for his opinion. A fresh X-Ray was not required. Time gap was not long and it is not shown to be of significance and importance.

9. It is submitted that X-Ray was not examined by the specialist. As per the medical file, the X-Ray was examined by Major Dr. S Narayanan, Medical Officer, (Resp. Med.). Thus the appellate opinion was by the specialist in respiratory medicine.

10. The last contention raised by the petitioner is that the X-Ray machine was not functioning properly and, therefore, a fresh X-Ray should have been taken. Reference is made to the representation dated 7.10.2016. The said representation was made after the Appellate Medical Board had examined the petitioner on 8.9.2016 and declared as unfit. The petitioner did not raise the said contention earlier. The contention and allegation is an afterthought.

11. For selection in the Indian Air Force, the candidates must meet the prescribed medical standards. The selectees are required to serve under difficult and assiduous conditions. On the question of medical and physical fitness, we would not interfere with expert opinion based on perceptions and

insinuations, unless there are good and cogent grounds and reasons to do so.
In the present case, there are none.

12. In view of the above, the petition is dismissed, without any order as to costs.

SANJIV KHANNA, J

PRATHIBA M. SINGH, J

MAY 26, 2017/P