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

+ **W.P.(C) 3479/2017**

HARI SINGH

..... Petitioner

Through: Mr R.K. Shukla, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Jagjit Singh, Sr. Standing Counsel
for Railways, Mr Preet Singh Mr Sukh Dev Singh,
Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **24.04.2017**

The petitioner has preferred this petition to assail the order dated 19.11.2016 passed in RA No. 75/2016 in OA No. 881/2014. He also seeks to assail the order dated 17.03.2015 passed in the original application.

The petitioner in his Original Application before the Tribunal had sought direction to retire him on medical grounds. This direction was sought premised on the report of the Medical Board, which examined the petitioner in March, 2013 and declared him medically unfit. He also sought compassionate appointment for his son. Subsequently, he was examined by another Medical Board who gave its report on 05.02.2014 and de-categorized the petitioner from BEE-1 category to CEE-1 category and he was advised to be given an alternative employment with sedentary job. It is at this stage that the petitioner approached the Tribunal, and assailed the findings of the subsequent Medical Board. When the matter was pending before the

Tribunal instead of pressing his petition on merits, the petitioner accepted the decision of the Tribunal dated 17.03.2015 that he be examined by a larger Medical Board. Subsequently, when the aforesaid review application was preferred, it transpired that the applicant had already attained the age of superannuation on 30.06.2014, i.e., much prior to the passing of the order dated 17.03.2015. In this background, the Tribunal held that, obviously, the petitioner could not be directed to be examined by another Medical Board after the date of his superannuation. It is this order which the petitioner assails before us.

We do not find any merit in the petitioner's submissions. The petitioner should have pressed his original application, i.e., OA No. 881/2014 and not accepted the decision of the Tribunal to refer him to a larger Medical Board. The petitioner, however, quietly-without informing the Tribunal that he had gone past the superannuation age, accepted the decision of the Tribunal requiring him to be examined by a larger Medical Board.

In view of the above, we do not find any merit in the petition and the same stands dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

APRIL 24, 2017/bg