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

+ **W.P.(C) 8005/2016**

Date of decision: 26th September, 2017

PRADEEP KUMAR Petitioner
Through Mr. Abhijat and Mr. Harshvardhan
Sharma, Advocates.

versus

UNION OF INDIA & ORS. Respondents
Through Mr. Rajan Sabharwal, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAVIN CHAWLA

SANJIV KHANNA J. (ORAL)

The petitioner, Pradeep Kumar, was declared medically unfit on account of sub-standard vision and, therefore, denied selection and appointment as Constable in the Railway Protection Force.

2. Pradeep Kumar pursuant to directions issued in W.P. (C) No. 7469/2014 vide order dated 16th December, 2014 was examined by the Review Medical Board.

3. The Review Medical Board, to ascertain whether the petitioner had undergone any refractive surgery had referred him to Guru Nanak Eye Centre, Delhi and All India Institute of Medical Sciences, New Delhi. The petitioner was declared fit on the said account.

4. The petitioner, however, was declared unfit by the Review Medical Board on account of hypertension and cardiac systolic murmur.

5. The petitioner contests the said findings of the Review Medical Board as incorrect. He relies on the Echo Cardiogram report dated 16th December, 2015 of the Post Graduate Institute of Medical Sciences, Rohtak and Echo Cardiogram report dated 19th September, 2016 by the Department of Cardiology, Safdarjung Hospital, New Delhi. It is submitted that another medical board should be constituted to examine the petitioner and ascertain the findings recorded by the Review Medical Board. Our attention is drawn to the judgment dated 23rd February, 2015 in Writ Petition (Civil) No. 1655/2015, ***Krishan Kumar versus Union of India and Others***.

6. In ***Krishan Kumar*** (supra), the petitioner was declared unfit on account of sub-standard vision in left eye. Thereafter, Krishan Kumar had got himself examined by an Ophthalmologist at All India Institute of Medical Sciences who had opined that he had perfect vision (6/6) in both eyes. In the aforesaid circumstances, the Court had directed that Krishan Kumar should be examined by a Board of Ophthalmologists at the Army Hospital (Research and Referral), New Delhi, who shall submit their report to the Director General of Railway Protection Force. The Division Bench of the High Court had observed as under:-

“5. We need not catalogue over 50 orders passed by this Court emphasizing that whenever a person is medically examined for purposes of being offered appointment to a public post and is opined to be unfit, a reference needs to be

made to the medical standard at which the person was evaluated followed by clearly listing in what manner the medical standard was not achieved, for then alone can the person obtain an opinion from a third doctor, and if an opinion to the contrary is obtained, it must likewise contain the reasons so that at the Review Medical Board the benefit of the two prior reasons is with the Medical Board, warranting the Review Medical Board to author an opinion keeping in view the two earlier opinions.”

7. When we turn to the facts of the present case, it is noticed that the petitioner for the purpose of review medical examination was admitted to the Divisional Hospital, Northern Railway, Delhi on 7th November, 2015 and was there till 13th November, 2015. The 2-D Echo Cardiogram report of the petitioner records abnormalities. The respondents have also enclosed blood pressure chart of the petitioner, which would indicate reading as high as 190/96, 189/95 and 188/94 on some occasions.

8. In the facts of the present case, we do not think that the opinion of the Review Medical Board of three doctors, namely, Special Medical Officer, Initial Medical Examiner, Senior Medical Officer is questionable, as evaluation and opinion were after following the proper procedure. The report given by the three doctors was accepted by the Chief Medical Superintendant as the accepting authority.

9. In these circumstances, reliance placed by the petitioner on the decision in the case of **Krishan Kumar** (supra) would not be apposite and in fact would support the stand of the respondents.

10. We have also examined the report of Post Graduate Institute of Medical Sciences, Rohtak dated 16th December, 2015 and Safdrajung

Hospital dated 19th September, 2016, but do not think they would tilt the balance in favour of the petitioner. The Echo Cardiograph report of Post Graduate Institute of Medical Sciences, Rohtak records different parameters and has opined on aspects. The report of the Safdarjung Hospital on the question of diagnoses records a question mark. The two reports do not refer to the blood pressure readings of the petitioner. The findings recorded by the Northern Railway, Central Hospital New Delhi refer to Traces TR. It may be relevant to state here that the petitioner had undergone 2-D Echo at the Northern Railway, Central Hospital.

11. We also do not find any merit in the contention that reference to another Medical Board is justified because the Review Medical Board for the first time on the basis of 2D Echo Cardiogram report had opined and observed Traces of TR. This cannot be a reason and ground to refer or direct evaluation by another Medical Board.

12. In view of the aforesaid position, we would go by the report given by the Review Medical Board and do not see any reason to accept the prayer of the petitioner to make another reference.

13. Writ Petition is accordingly dismissed. No costs.

SANJIV KHANNA, J.

NAVIN CHAWLA, J.

SEPTEMBER 26, 2017 MR/NA