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

+ **W.P.(C) 4765/2015**

Date of decision: 7th September, 2017.

CT/CD RAMBABU CHANDRAWANSHI Petitioner

Through: Mr. N.L. Bareja, Advocate

versus

UNION OF INDIA AND ORS. Respondents

Through: Ms. Monika Arora, CGSC and
Mr. Harsh Ahuja, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAVIN CHAWLA

Sanjiv Khanna J: (ORAL)

Constable Rambabu Chandrawanshi had applied for selection and appointment as Head Constable/General Duty through Limited Departmental Competitive Examination, 2013.

2. Having qualified the written test, physical efficiency test, and physical standard test, he had appeared for medical examination before the Recruiting Medical Officer on 16th February, 2014 at Bilaspur on 27th February, 2014. He was declared unfit for '*Left Sided Inguinal Hernia*', 11 degree Haemorrhoid at 3'O clock position and CH Skin disease.

3. Thereafter, the petitioner had obtained a medical certificate from a medical practitioner and doctor dated 5th March, 2014 who had opined that no hernia could be seen or detected in the clinical examination and as per sonography. Similarly, Haemorrhoid could not be seen in Complete Proctoscopy of the patient. Negative opinion was given in respect of the skin disease.
4. The petitioner on the basis of the aforesaid opinion was examined by the Review Medical Board which was constituted to consider review cases. Review Medical Board had carried out detailed medical examination, from 28th April, 2014 to 3rd May, 2014.
5. The respondents have produced before us the papers to show that the Review Medical Board had declared the petitioner as unfit for the reason that he had 'Left Sided Inguinal Hernia'.
6. During the course of hearing, learned counsel for the petitioner, on instructions from the petitioner, has accepted that the petitioner was operated for hernia.
7. The contention of the petitioner is that he was declared medically fit in the annual medical examination held on 8th September, 2014 and in the medical examination held in October, 2014 when the petitioner was medically examined for appointment of the rank of Sub-Inspector/General Duty through LDCE-2014.
8. On the last date of hearing, we had asked the counsel for the respondents to examine the said aspects. Counsel for the respondents has produced before us the annual medical reports dated 22nd October, 2013 and 8th September, 2014. As per the said reports, the petitioner was declared medically fit in SHAPE-I.

9. In spite of the aforesaid position, we are not inclined to accept the prayer of the petitioner, for setting aside the finding recorded by the Review Medical Board held between 28th April, 2014 to 2nd May, 2014 (sic. 3rd May, 2014) and the letter dated 27th February, 2014 issued by the Recruiting Medical Officer and for declaring him to be in medical category SHAPE-I or to constitute an independent medical board.

10. The reason is that the petitioner was examined by Review Medical Board and found to be suffering from *hernia*. This opinion affirmed the finding of the Recruiting Medical Officer. The petitioner has accepted that he was operated for *hernia*, and thus accepts medical intervention for the said ailment.

11. It is submitted the said operation was done not because the petitioner was suffering from the said disease, but because the petitioner wanted to meet the objections. It is difficult to accept the said position. Operation and surgical procedures are not undertaken, without any medical reason. They are undertaken by specialists and are not on mere request when not required.

12. As per the Standing Order No.5/2011 dated 22nd July, 2011, the applicant should be in Medical category SHAPE-I when they apply. The candidates who clear the written examination, meet the physical measurements, qualify the physical efficiency test, and after checking of testimonial were subjected to a detailed medical examination at Stage –V. The relevant paragraph of the aforesaid standing order reads as under:-

Stage-V: Medical Examination

Detailed Medical examination of those candidates who come out successful in the written, PST, PET and Scrutiny of testimonials / records will be conducted as per existing guidelines in the force. Each candidates will be declared either fit or unfit and no one will be categorized “Temporarily unfit”.

Candidates who are declared unfit in the medical examination will be given opportunity to prefer appeal within 15 days of rejection by medical board. Such appeals are to be addressed to the concerned IG of the Sector conduction HC/GD-LDCE. The procedure for conducting review medical board shall be completed well before the final result of HC-LDCE is announced. The review medical board for assessing suitability of the candidates preferring appeal will be constituted by the Director (Medical). The review medical board will consist of three Group ‘A’ Medical officers of the discipline of physician, surgeon and Ophthalmologist. The senior most medical officer will function as the Presiding officer of the review medical board.

Pregnancy at the time of PET will be disqualification and pregnant female candidate can be rejected at that time only. However, if any such women candidates who as a result of tests and the time of medical examination is found to be pregnant of 12 weeks standing or over shall be declared temporary unfit and her appointment will be held in abeyance until the confinement is over.

13. In the present case, the petitioner was not only to be in SHAPE-I at the time when he had submitted the application, but he should

have been fit on the date of the medical examination at stage -V. Temporarily unfit candidates cannot be considered as fit. On the said date/period when the petitioner was examined by the Recruiting Medical Officer and the Review Medical Board, he was unfit. The fact that the petitioner was earlier and later fit and in SHAPE-I is immaterial.

14. In view of the aforesaid position, we do not find any merit in the present petition. The same is dismissed with no order as to costs.

SANJIV KHANNA, J

NAVIN CHAWLA, J

SEPTEMBER 07, 2017/P