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

+ W.P.(C) 9528/2016

JAY SINGH CHAHAR

..... Petitioner

Through

Mr. Ankit Kumar and Mr. Yomesh
Dutt Sharma, Advocates

versus

UNION OF INDIA AND ORS

..... Respondents

Through

Ms. Ruchi Jain, Advocate
Mr. Saurabh Bobde, Surgeon
Commandant

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE V.KAMESWAR RAO

ORDER

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06.02.2017

CM No. 38118/2016 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

WP(C) No. 9528/2016

This writ petition is directed against the rejection of the candidature of the petitioner for appointment to the Indian Navy on medical grounds. The candidature has been rejected on the basis of the finding of the medical board that had conducted the medical examination of the petitioner that the petitioner was suffering from

Vitiligo.

The petitioner has relied upon a medical report/opinion of the department of Dermatology and Venereology of the All India Institute of Medical Sciences, New Delhi certifying that the petitioner is not having Vitiligo.

In proceedings under Article 226 of the Constitution of India, this Court cannot adjudicate the factual question of whether the petitioner actually suffers from Vitiligo or not. It is not for this Court to make a comparative assessment of the medical reports/opinions of professional Doctors of the AIIMS and of the Indian Navy and decide which of the reports/opinions is correct.

Our attention has been drawn by Dr. Saurabh Bobde, Surgeon Commandant to the symptoms and effects of Vitiligo which according to Dr. Bobde can affect the functioning of a Naval Sailor who has to spend many hours in the sunlight.

In a judgment rendered by us in Akash Tyagi vs. Union of India and Ors., we observed:-

“From the medical literature produced before us, it appears that Vitiligo is characterised by progressive

autoimmune-mediated destruction of epidermal melanocytes which inter alia increases the risk of other autoimmune diseases with unpredictable evolution and unsatisfactory therapeutic outcomes.”

Having regard to the submissions of Dr. Bobde and having regard to our observations in Akash Tyagi based on medical literature produced before us we cannot direct that the petitioner be given appointment even though he might be afflicted with vitiligo. However, the prescriptions of AIIMS indicate that the petitioner does not suffer from Vitiligo.

Considering that there are conflicting reports/opinions and the livelihood of the petitioner is involved, we deem it appropriate to direct the respondents to refer the petitioner for diagnosis to the Army Research and Referral Hospital, New Delhi. The Army Research and Referral Hospital shall constitute a medical board comprising experts to give their opinion as to whether the petitioner suffers from Vitiligo. Diagnostic tests may also be carried out.

The candidature of the petitioner shall abide by the opinion of

the medical board constituted by the Army Research and Referral hospital.

The writ petition is disposed of.

INDIRA BANERJEE, J

V.KAMESWAR RAO, J

FEBRUARY 06, 2017

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