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

+ **WP(C) No.10330/2016**

Date of decision: 18th August, 2017

RUDRANARAYAN SAHOO Petitioner

Through: Mr.Ankur Chhibber, Adv.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr.Vikas Mahajan, CGSC with
Mr.S.S.Rai, Adv. along with Lt.
Col.Vikrant & Surg Cdr Narayan S.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAVIN CHAWLA

SANJIV KHANNA, J. (Oral)

CM No.10919/2017 (delay in filing counter affidavit)

For the reasons stated in the application, delay is condoned.

The application is disposed of.

WP (C) 10330/2016

Rudranarayan Sahoo, the petitioner, impugns the order dated 12.08.2016 by which he was declared medically unfit and thereby his candidature as Sailor in Indian Navy was cancelled.

2. The petitioner had earlier in 2015 participated in the selection process and was declared medically unfit for DNS (Lt) Side with (Post OP Synechia (Lt) by the Recruitment Medical Officer on 11.09.2015. Taking advantage of the provision of appeal, the petitioner had then reported and was examined at the Command Hospital, Calcutta. He was declared medically fit. In counter affidavit filed by the respondents, it is accepted that the petitioner had undergone medical operation to correct DNS before he had reported to the review medical board at the Command Hospital, Calcutta.

3. However, the petitioner was not selected despite being medically fit, in view of his rank.

4. The petitioner had again applied in the next batch and has qualified the written examination, physical efficiency test, and was declared fit in the preliminary recruitment medical examination.

5. However, the petitioner was declared temporary unfit for B/L Latent Squint and DNS (Lt) Side in the Final Medical Examination at INS Chilka on 12.08.2016. The respondents state that there is no provision of appeal against the final medical examination. However, in the counter affidavit in paragraph 10, the respondents accept that the petitioner was

examined the second time by Medical Specialists at INHS Nivardini. The petitioner was declared fit for B/L Latent Squint by Classified Eye Specialist, but was declared unfit for DNS (Lt) Side (Post OP Synechia-LT) by the Classified ENT Specialist on 12.08.2016. It was recorded that Post OP Synechia-LT was present in left nasal cavity.

6. The respondents accept that DNS by itself is not a disqualification and candidates with the said diagnosis are not treated as unfit unless obstruction is interfering with the nasal airway. We have referred to the said position as the medical officer at INS Chilka, who had examined the petitioner on 12.08.2016, had not commented or observed any obstruction in the airway. The petitioner was disqualified as unfit because of DNS, which is contrary to the guidelines. Further, the medical officer at INS Chilka had not observed post OP Synechia-LT in the left nasal cavity, a condition which was recorded for the first time by the doctors in INHS Nivardini. This condition, it is accepted, is temporary and indicates a recent operation.

7. Regarding the question whether the petitioner had undergone nasal procedure or operation immediately before his examination on 12.08.2016, the position of the petitioner is that he had undergone the said

operation in September, 2015 and thereafter, was examined by Command Hospital, Calcutta and was declared fit. The petitioner has categorically stated that he has never been operated thereafter. The petitioner has relied upon the OPD Card issued by the AIIMS dated 22.09.2016 which records no history of nasal obstruction and nasal discharge.

8. Learned counsel for the petitioner has drawn our attention to several decisions of this Court including in ***Krishna Kumar Gurjar v. Union of India & Ors.*** in WP (C) No. 946/2016 decided on 11.03.2016 and ***Vicky v. Union of India & Ors.*** WP (C) 4260/2016 decided on 13.05.2016, wherein the petitioner therein, on being declared unfit by the medical officer of INS Chilka, was referred for medical examination at Army Research and Referral Hospital, Delhi who were directed to constitute Review Medical Board.

9. Keeping in view the aforesaid factual background, we are of the opinion that the petitioner should be examined by Army Research and Referral Hospital, Delhi and thorough examination would be conducted. It should be ascertained whether the petitioner had undergone nasal surgery in last one year. In case there are indications that the petitioner had undergone nasal surgery, he would be declared medically unfit. The

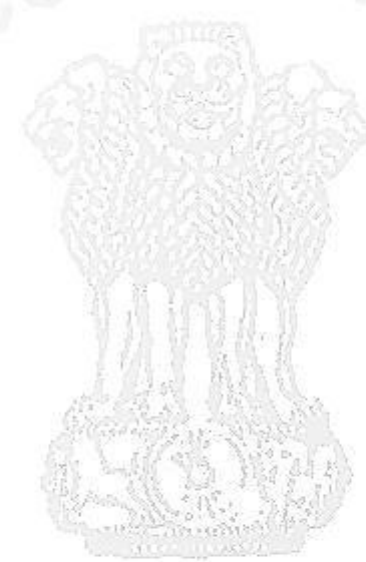
doctors/specialists would also examine whether the nasal cartilage was obstructing nasal airway. The doctors /specialists as experts would decide whether the petitioner is fit or unfit to take up the job as a Sailor. The said exercise will be done within a period of six weeks from the date of this order.

10. With the aforesaid observation, writ petition is disposed of with no order as to cost.

AUGUST 18, 2017/vp

SANJIV KHANNA, J

NAVIN CHAWLA, J



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