

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + **W.P.(C) 7704/2017 & CM 31850/2017**

Date of decision: 1st September, 2017

SHIVAM YADAV

..... Petitioner

Through: Mr.S.S.Pandey and Mr.H.S.Tiwari,
Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Through: Mr.Vijay Joshi, Sr. Panel
counsel along with Flt. Lt. G.Paliwal and SGT
D.Srivastava

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAVIN CHAWLA

SANJIV KHANNA, J. (Oral)

The petitioner was declared as medically unfit by the Medical Board on 21st July, 2016 at Air Force Hospital, Kalaikunda, Kharagpur, West Bengal (4AFH) on the ground that he was unable to squat.

2. The petitioner, thereafter, had filed an appeal and was examined by the Appellate Medical Board at SMC, Air Force Station, Bagdogra, West Bengal on 10th August, 2016. The petitioner claims that he was referred to a Specialist and was

examined at 158 Base Hospital, Bengdubi, West Bengal. The petitioner was again declared as unfit on the ground that he was unable to squat.

3. The petitioner has filed the present writ petition after nearly one year on 31st August, 2017. In this writ petition, allegations have been made against the Specialist Doctor who had examined the petitioner in the Appellate Medical Board proceedings. The petitioner claims that in the physical fitness test he was required to squat 20 times within the stipulated time. The petitioner, it is asserted was examined at Safdarjung Hospital, New Delhi on 22nd July, 2017, and no abnormality has been recorded. Reliance is placed on OPD card of Pt. B.D. Sharma PGIMS Rohtak dated 17th June, 2017, observations of Dr. Chandeeep Singh of Medanta Hospital dated 8th July, 2017, etc.

4. Learned counsel for the petitioner asserts that there is no delay and laches. He has referred to the communication dated 3rd August, 2017 in response to the representation dated 19th June, 2017.

5. These reports mentioned in paragraph 3 above, we notice,

begin from June, 2017, nearly ten months after the petitioner was declared as unfit on account of inability to squat by the Appellate Medical Board, who had examined the petitioner in August, 2016.

6. Reply by the respondents vide letter dated 3rd August, 2017 to the representation made by the petitioner on 19th June, 2017 would not explain the delay from August, 2016 till the representation dated 19th June, 2017 was made.

7. Learned counsel for the respondents who appears on an advance notice submits that the petitioner did not even wait for completion of the Medical Board proceedings in August, 2016. The Appellate Medical Board had declared the petitioner as unfit in absentia. This indicates and reflects that the petitioner was unable to squat. Upon selection, the first lot of the selectee had joined training in the month of January, 2017 and second lot had joined training in the month of July, 2017. Fresh recruitment process for the year 2017 is already in progress.

8. In the present case, principle of delay and laches would apply. The recruitment process and selection were completed with the selectee joining training. The time gap of nearly one year

indicates that the physical deficiency recorded in the two medical examinations was correct.

9. Learned counsel for the petitioner submits that the petitioner would like to apply again for selection to the Air Force. He submits that the petitioner apprehends that he would be denied admit card, because earlier he was declared as medically unfit. Learned counsel for the respondents submits that the application form does require the applicant to mention and state whether the said applicant was declared medically unfit on an earlier occasion, albeit this would not be a ground not to issue admit card. Therefore the petitioner can apply and if he qualifies, he would be examined by the Medical Board in accordance with law.

10. In view of the statement, the writ petition is dismissed. No order as to costs.

SANJIV KHANNA, J

NAVIN CHAWLA, J

SEPTEMBER 01, 2017

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