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

+ **W.P.(C) 9701/2017**

PRADEEP KUMAR

..... Petitioner

Through: Mr. Dharm Singh, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Anju Gupta and

Mr. Roshan Lal Goel, Advocates.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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01.12.2017

1. The petitioner has prayed for issuing directions to the respondents/CISF to appoint him to the post of Constable (Driver).
2. Learned counsel for the petitioner states that vide Notification dated 19.11.2016 issued by the respondents/CISF applications were invited to fill-up backlog vacancies to the post of Constable (Driver) for SC/ST candidates and the petitioner herein had applied for the subject post and was issued a call letter for his medical examination.
3. On 19.5.2017, during his medical examination, the petitioner was found medically unfit due to '*Perforation of right tympanic membrane*' (normal absence of Perforation). The petitioner asked for a Review Medical Examination in respect of the findings returned declaring him unfit for the subject post. Vide order dated 27.7.2017, the Review Medical Board also declared him unfit for the very same reasons.

4. Prior to appearing before the Review Medical Board, the petitioner underwent a surgery (on 28.05.2017) for correcting the problem by undergoing tympanoplasty. Aggrieved by the decision taken by the Review Medical Board, on 27.07.2017, declaring him unfit, the petitioner has filed the present petition stating *inter alia* that he is now fit for the subject post in as would be apparent from the certificate dated 27.07.2017, issued by the Review Medical Board.

5. It is noteworthy that the aforesaid certificate dated 27.07.2017, issued by the Review Medical Board specifically notes that the petitioner has not yet completed the post operative period of four months, post his surgery. On the last date of hearing, we had requested learned counsel for the respondents to obtain clear instructions on the above aspect.

6. Today, learned counsel hands over a copy of the policy guidelines issued by the Ministry of Home Affairs, Government of India, which states that in post operative cases, a candidate shall be considered fit in the event, he has undergone tympanoplasty, only after the expiry of four months, reckoned from the date of the surgery. Further, learned counsel for the respondents states that he has obtained instructions to the effect that there are 344 vacancies in the post of Constable (Driver). A copy of the letter dated 22.11.2017 received by him from the Department is handed over and taken on record. He states that the respondents/CISF shall be issuing a fresh notice for filling up the said vacancies, within six months and the petitioner would be still eligible to apply for the said post as he is 26 years old and being an ST candidate, would be entitled to relaxation in terms of the relevant government orders, if applicable to him.

7. In view of the aforesaid position, we are not inclined to grant the relief prayed for, by directing the respondents/CISF to appoint the petitioner to the post of Constable (Driver). As and when the respondents issue a fresh advertisement for filling up the remaining 344 vacancies in the post of Constable (Driver), the petitioner shall be entitled to apply for the subject post, if eligible.

8. The petition is disposed of.

HIMA KOHLI, J

REKHA PALLI, J

DECEMBER 01, 2017

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