

\$~28

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

+ W.P.(C) 10043/2017

ROBIN

..... Petitioner

Through Mr.R.H.A. Sikander, Adv. with
Mr.Nishant Mandal, Adv. with
petitioner in person.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through Mr.Vivek Goyal, CGSC with
Mr.Harsh Pandit, Adv.,
Mr.Rajeev Ranjan, Shashi,
Adv. & Flt.G.
Paliwal, CASB, Sgt. D.
Srivastava, CASB for UOI.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

%

06.12.2017

1. The petitioner seeks quashing of the Medical Unfitness Certificates dated 20th June, 2017 & 14th August, 2017, issued by the respondent no.3-Central Airmen Selection Board, wherein he has been held to be medically unfit for the post of Airman in the respondent no.2/Indian Air Force (IAF).

2. The brief facts of the case are that in October, 2015, the respondent no.2/IAF issued a notification inviting applications for selection to the post of Airmen and pursuant to the same, the

petitioner had applied for the position of Airman Group 'X'. The petitioner appeared in the written examination on 5th April, 2016 and upon clearing the same, he undertook the physical fitness test on 13th July, 2016 where he was declared medically fit to join the respondent no.2/IAF. On 31st October, 2016, the respondents issued the All India Select List wherein the petitioner's name had duly figured and he received a call letter for enrolment on 4th May, 2017, directing him to report to the Commanding Officer at the Airmen Selection Centre (ASC), Ambala Cantonment on 20th June, 2017 for a re-medical examination. Upon reporting to the Commanding Officer, ASC, on 20th June, 2017, the petitioner was subjected to a re-medical examination before another Medical Board but was declared unfit on the ground that he was found to be overweight and suffering from digital tremors.

3. Aggrieved by the aforesaid decision, the petitioner moved an application for his examination by an Appeal Medical Board which was duly allowed and vide letter dated 19th July, 2017, he was directed to appear before the Appeal Medical Board at Mohali, Chandigarh on 14th August, 2017. The petitioner was examined at Command Hospital at Mohali and the Appeal Medical Board also declared him medically unfit due to the presence of digital tremors.

4. Before approaching this Court, the petitioner got himself medically examined at All India Institute of Medical Sciences

(AIIMS), New Delhi on 24th October, 2017 and the Doctor in the Department of Medicine, opined that there was no evidence of digital tremors. Armed with the aforesaid report, the petitioner has filed the present petition.

5. On 27th November, 2017, learned counsel for the respondents was directed to obtain instructions as to whether the condition of digital tremors is curable and if it can be suppressed with medicines. Further he was asked as to who would be the Specialist in the field to assess the petitioner for the said condition and whether such a Specialist was made part of the Appeal Medical Board.

6. Today, Mr.Goyal, Learned Central Govt. Standing Counsel states on instructions that a Specialist in the field of Medicine, is competent to assess a candidate for the condition of digital tremors and no other Specialist is required to be made part of the Review Medical Board. The opinion of a Super specialist namely a Neurologist, is required only for the purpose of treatment and not for the purpose of assessing the medical fitness at the time of recruitment. He further states that such a condition can be suppressed on taking medication, which can relieve the symptoms temporarily.

7. Learned counsel for the petitioner states that as on date, the petitioner's age is twenty years and eleven months, and the cut off age for eligibility to the subject post, is twenty one years which he would be attaining in January, 2018, thereby making him permanently

ineligible to apply for the said post. He, therefore, pleads that in the facts and circumstances of the present case, the petitioner may be permitted to appear before the R & R Hospital at New Delhi for a medical re-examination by a Board which may include a Super Specialist in the field of Neurology, for assessing his medical condition.

8. Given the fact that this would be the last chance available to the petitioner for consideration of his candidature for the post of Airman in Group 'X', we deem it appropriate to direct the respondents to approach the Army R & R Hospital, Delhi with a request to hold a Review Medical Board in respect of the petitioner for assessing him for the disability of digital tremors. The petitioner shall be communicated the date and time for appearing before the Review Medical Board. The relevant documents pertaining to the petitioner, shall be furnished by the respondents to the Review Medical Board.

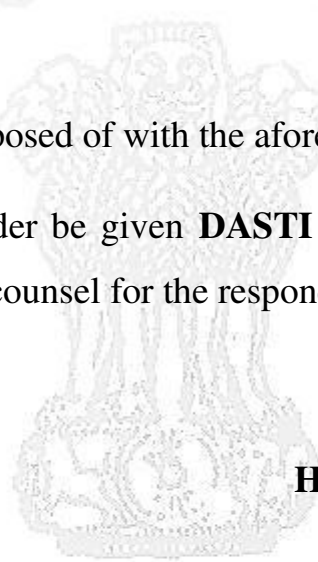
9. We leave it to the Board to decide as to whether the petitioner ought to be kept in isolation and if so, for how long, before assessing his medical fitness, to ensure that if he has been taking medication to suppress the symptoms of digital tremors, then the effect of the medicine wears off. Only thereafter shall the petitioner be examined by the Review Medical Board comprising of at least one Super Specialist in the field of Neurology. It is made clear that the Report of the Review Medical Board shall be treated as final for all purposes.

The recommendations made by the Board shall be furnished to the petitioner and the respondents.

10. In the event, the petitioner is declared fit by the Review Medical Board, then the respondents shall take immediate further steps for processing his case for appointment to the subject post, as per his merit. The aforesaid process shall be completed within the month of December, 2017 itself as the petitioner shall attain the age of 21 years on 5th January, 2018 and thereafter, will become overage for the subject post.

11. The petition is disposed of with the aforesaid observations.

12. A copy of this order be given **DASTI** under the signatures of the Court Master, to the counsel for the respondents for compliance.



HIMA KOHLI, J

REKHA PALLI, J

DECEMBER 06, 2017/aa