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

+ **W.P.(C) 10401/2017 & CM No.42463/2017**

YOGESH KUMAR

..... Petitioner

Through

Mr.R.S. Kalkal, Adv. with Mr.J.P.
Sharma, Adv.

versus

UNION OF INDIA AND ORS

..... Respondents

Through

Mr.Arjun Mitra, Adv. with Sgt.D.
Srivastava, CASB.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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24.11.2017

1. The present petition has been filed by the petitioner praying *inter alia* for quashing the letter dated 27th September, 2017, issued by the respondent no.3/Central Airmen Selection Board, declaring him unfit on the ground that he is suffering from “Pilonidal Sinus”.
2. The petitioner had appeared for selection to the post of Airmen Group ‘X’ ‘Y’ and had cleared his written examination and physical fitness test. On 13th July, 2017, the petitioner was called for a medical examination where he was declared unfit on two grounds i.e. “CVS Review” and “Pilonidal Sinus”. The petitioner requested for constitution of an Appeal Medical Board, to examine him. Pursuant to his examination by the Appeal Medical Board, the petitioner was declared fit insofar as the first disability

i.e. “CVS Review” was concerned, but he was declared unfit in the other category i.e. “Pilonidal Sinus”. Thereafter, the petitioner sent a representation dated 17th August, 2017 for re-consideration of his claim. Vide letter dated 27th September, 2017, respondent no.3 informed the petitioner that on the basis of the report of the Appeal Medical Board, held on 8th August, 2017 and 9th August, 2017, he has been declared unfit.

3. A specific averment has been made in the present petition that the report of the Appeal Medical Board had never been supplied to the petitioner. Learned counsel for the respondents who appears on advance notice disputes the same and hands over a copy of the documents pertaining to the petitioner’s medical examination conducted by the Appeal Medical Board, which reveals that he had duly acknowledged receiving a copy of the Medical Unfitness Certificate on 8th September, 2017. The said documents are taken on record. In view of the above, the petitioner ought to have stated the correct position instead of falsely asserting that he had never been supplied a copy of the report of the Appeal Medical Board that had declared him medically unfit.

5. Learned counsel for the petitioner further states that the petitioner had in fact approached AIIMS, Delhi for his examination at their Outdoor Patient Department, wherein the treating doctor had recorded that he had no complaint regarding “Pilonidal Sinus”.

6. Counsel for the respondents submits that well before the date he had approached AIIMS, the petitioner had already undergone a surgery for the ailment on 20th July, 2017, which fact he did not reveal to the Appeal Medical Board, when he was examined on 9th August, 2017.

7. In view of the aforesaid facts and circumstances, we see no good reason to interfere in the impugned order. Admittedly, on the date when the petitioner was medically examined i.e., on 13th July, 2017, he was unfit on account of suffering from “Pilonidal Sinus” for which he underwent surgery later on, on 20th July 2017. All these facts have been withheld in the petition and that itself is sufficient ground for this Court not to exercise its discretion in favour of the petitioner.

8. The petition is, accordingly, dismissed *in limine* along with the pending applications, as meritless.

HIMA KOHLI, J

VINOD GOEL, J

NOVEMBER 24, 2017/aa