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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11374/2017 & C.M. No.46422/2017 (for exemption)
VISHNU KUMAR Petitioner
Through Mr.Rajesh Nandal, Adv.
versus
UNION OF INDIA AND ORS. Respondents
Through Ms.Barkha Babbar, Adv. with
Ms.Dipanjali Tyagi, Adv. for UOI.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **19.12.2017**

1. The petitioner in the present petition, is aggrieved by the decision of the respondents declaring him unfit for recruitment to the post of Airman in Group 'X'.
2. Briefly stated, the facts of the case are that the respondents had issued an advertisement dated 15th September, 2016, inviting applications for recruitment to the post of Airmen Group 'X' & 'Y' (Technical/Non-Technical). The petitioner applied for the post of Airman in Group 'X' on 19th February, 2017 and he appeared for the written examination as well as physical test which he duly cleared. On 2nd August, 2017, as directed, the petitioner reported for his medical examination before the Medical Board that declared him unfit on account of having "*external haemorrhoids*".
3. On the petitioner filing an appeal requesting for a fresh medical examination, the same was accepted by the respondents and he appeared before the Appeal Medical Board on 24th August, 2017. The Board also declared him medically unfit vide Certificate dated 7th September, 2017 on

the same the same ground. Subsequently, on 27th September, 2017, the petitioner presented himself before a Senior Consultant Surgeon at District Hospital, Mathura for examination and as per the report dated 27th September, 2017, he did not suffer from any significant “*external haemorrhoids*”. A report on similar lines given by the Senior Resident, Department of Surgical Disciplines, AIIMS has been placed at page 31 of the paper book.

4. Learned counsel for the petitioner submits that in view of the aforesaid two reports which suggest that the petitioner does not suffer from any significant “*external haemorrhoids*”, this Court may direct the respondents to undertake a fresh medical examination of the petitioner for which he is ready to appear before the R & R Hospital, New Delhi.

5. Ms.Babbar, learned counsel for the respondents who appears on advance notice, submits that the Department has not given her any clear instructions and she would need time for obtaining necessary instructions. She has handed over the instructions received from the Department which are taken on record. Having perused the same, we find that the same do not deal with the prayer made by the petitioner for being examined by an independent Medical Board.

6. Learned counsel for the petitioner states that there is an urgency in the matter for the reason that the recruitment process will be concluded in the first half of January, 2018, and, therefore, in case of any delay, the petitioner would miss the opportunity for being considered for the said post.

7. Having regard to the submissions made hereinabove and taking into consideration the aforesaid reports submitted by the petitioner enclosed as

annexure P 5 (Colly.), we are of the opinion that the matter can be satisfactorily resolved if the petitioner is directed to appear before a Medical Board constituted by the Army (R & R) Hospital. The respondents shall approach the Army (R & R) Hospital with a request for constituting a Medical Board to examine the petitioner. The date and time fixed in that regard shall be communicated in writing to the petitioner who shall make himself available for examination, to establish as to whether he suffers from “*external haemorrhoids*”. All the reports of the Medical Board and the Appeal Medical Board in respect of the petitioner, shall be forwarded by the respondents to the R & R Hospital. The Army (R & R) Hospital shall examine the petitioner and submit a report to the respondents with copy to the petitioner. The report shall be final on the aforesaid aspect and both the parties shall be bound by the same.

8. In the event, the recommendations of the R & R Hospital are in favour of the petitioner, then the respondents shall process his case expeditiously to enable him to complete all other formalities and if eligible, appoint him to the subject post.

9. The petition along with the pending application, is disposed of in the above terms.

10. A copy of this order shall be given DASTI under the signatures of the Court Master for making necessary compliance.

HIMA KOHLI, J

DECEMBER 19, 2017/aa

WP(C) No.11374/2017

REKHA PALLI, J

Page No.3 of 3

