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

+ **W.P.(C) 974/2018 with CM Nos.4142-4143/2018**

ASHISH KUMAR VERMA

..... Petitioner

Through: **Mr.Surya Nath Pandey, Adv.**

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: **Mr.Sanjeev Narula, CGSC for
UOI with Ms.Anumita
Chandra, Advocate with
Lt.Col.(Dr.) Ashok Kumar,
Cl. Spl. (Ophthal) & VR
Surgean
Mr.Naresh Kaushik, Mr.Devik
Singh & Mr.Akash Mohapatra,
Advocates for R-2 & R-3/UPSC**

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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20.03.2018

1. The petitioner is aggrieved by his non selection in the National Defence Academy and Naval Academy Examination (1) -2017 for NDA-139 Course and has prayed for issuance of a writ/directions to the respondents to constitute a Review Medial Board to re-examine him.

2. The brief facts of the case are that in January, 2017, the respondent No.2/UPSC had published an Examination Notice for conducting examinations for admission to the Army, Navy and Air Force Wings of National Defence Academy for 139th Course and Naval Academy for 101st Indian Naval Academy Course (INAC), commencing from 2nd January, 2018 through National Defence Academy and Naval Academy Examination (1) -2017.

3. The petitioner had applied for participating in the aforesaid examination by filing an online application. On 23.04.2017, he had appeared in the written examination and qualified for the same. On 28.08.2017, the petitioner was called for an interview by the Service Selection Board (SSB) at Varanasi, which he had also cleared. From 18.09.2017 to 22.09.2017, the petitioner was directed to undergo a medical examination at the Military Hospital, Allahabad. During the said examination, the Medical Board had declared him unfit on two counts namely (i) Cornea Pannus (BE) and (ii) (RT) Renal Calculus.

4. Immediately thereafter, on 22.09.2017, the petitioner had applied for an Appeal Medical Board. He was directed to appear before the said Board on 28.10.2017, at the Base Hospital, Delhi Cantt.. On 02.11.2017, he was declared unfit on account of “*Cornea Pannus (BE) in both the eyes*”. Thereafter, the petitioner filed an application for a Review Medical Board, which was not responded to by the respondents.

5. Learned counsel for the petitioner states that when his client had got himself checked at the Safdurjung Hospital as an OPD patient, he was declared fit with a report that he did not suffer from any

Cornea Pannus (BE) and the vision of both his eyes is 6/6, whereas the respondents have disqualified him in the Appeal Medical Board.

6. On the last date of hearing, we have requested learned counsel for the respondents to obtain instructions with regard to the vacancy position in the NDA and the Naval Academy in terms of the advertisement for the subject examination conducted in the year 2017 and produce the relevant medical records of the petitioner's ailment. The original records have been produced by the learned counsel for the respondents and perused by us.

7. Learned counsel for the respondents states that once a candidate is declared unfit in Appeal Medical Board, if he/she applies for the Review Medical Board, it is not mandatory that a Review Medical Board be constituted for the candidate and any such decision is taken at the discretion of the Ministry of Defence, based on the merits of each case. Photocopies of the medical reports are handed over by the learned counsel for the respondents and the same are taken on record.

8. Having perused the said record, it transpires that initially the Medical Board at Allahabad had declared the petitioner unfit on account of “(RT) Renal Calculus” as also “Cornea Pannus (BE)”. The said report has been signed by Lt. Col. Dr. Ekta Bagarus, who is an Eye Specialist.

9. Thereafter, the Appeal Medical Board at the Base Hospital, Delhi Cantt. had considered the report dated 01.11.2017 prepared by Lt.Col.Dr.Irshad Khan (*Spl. Surgery & Urologist*) declaring the petitioner ‘fit’ for “Renal Calculus” and the report dated 28.10.2017 prepared by Col.V.K.Barnwal (*Senior Eye Specialist*) declaring the

petitioner ‘*unfit in the eyes due to Corneal Pannus both eyes*’, and thereafter, the petitioner was declared unfit as under:-

“UNFIT FOR CORNEAL PANNUS (BE)”

The aforesaid findings were endorsed by Col.Alpana Jain, President, Medical Board and two other doctors, who were members of the Appeal Medical Board.

10. In view of the aforesaid reports, we do not see any justification in acceding to the petitioner’s request for a Review Medical Board by referring him to some independent hospital for a re-examination. The prayer made in the present petition is declined.

11. The petition is dismissed, along with the pending applications.

HIMA KOHLI, J.

PRATIBHA RANI, J.

MARCH 20, 2018

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