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

+ **W.P.(C) 1751/2018 & CM Nos.7246-47/2018**

ASHUTOSH VASHISTH

..... Petitioner

Through: **Mr.Anuj Kumar Sharma,**
Advocate

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: **Mr.Anurag Ahluwalia, CGSC.**

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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26.02.2018

1. The petitioner seeks issuance of a writ of certiorari, for quashing the orders dated 05.04.2017 and 12.07.2017, passed by the Medical Board and the Review Medical Board respectively, of the respondent No.3/CISF, declaring him medically unfit for the post of Sub-Inspector in the Delhi Police, CAPFs and ASI in the CISF, in terms of an advertisement dated 09.01.2016 wherein he had applied for recruitment to the subject posts.

2. Learned counsel for the petitioner submits that in response to the advertisement dated 09.01.2016, issued by the respondent No.2/SSC, the petitioner had applied for recruitment to the post of Sub-Inspector in the Delhi Police, CAPFs and ASI in the CISF. He

had cleared the written test and was called for a Physical Endurance Test (PET)/Physical Standard Test (PST). After qualifying the said test, the petitioner was called to appear in the Tier-II examination which includes a medical examination. On 05.04.2017, the petitioner was subjected to a medical examination at the BSF Frontier, Jodhpur, Rajasthan where he was declared unfit, on account of ‘1. Hypertension, 2. Over Weight BMI-26’. The rejection order gave an option to the candidate to prefer an appeal to the Review Medical Board after obtaining a medical certificate from a medical practitioner working in a government hospital, certifying his fitness.

3. Pursuant thereto, the petitioner had approached a Government Hospital i.e. Ram Manohar Lohia Hospital, New Delhi for a medical check up. He was admitted at the hospital for 24 hours between 20.04.2017 and 21.04.2017, where his blood pressure was recorded eight times throughout the day. Thereafter, the attending doctor at the hospital had opined as under:

*“Pt was admitted for 24 hrs. Found to be normotensive.
His BMI is 24.6, which is normal as per WHO guidelines.
ECG: mu, TMT: -ve
Fit from cardiology side.”*

4. Armed with the aforesaid report, the petitioner had approached the respondent No.3/CISF again for a Review Medical Board, which request was acceded to. The petitioner appeared before the Review Medical Board on 10.07.2017 at the BSF Hospital, Jodhpur. He was not examined on the said date and was asked to return on the next day i.e. on 11.07.2017. On 11.07.2017, the petitioner was examined in the

evening and his BP was recorded. On 12.07.2017, again, the petitioner was called for recording his BP and thereafter, he was referred by the respondents to the Civil Hospital, Jodhpur for a medical opinion. The Civil Hospital, Jodhpur recorded the blood pressure of the petitioner which was found to be within the normal range. Despite that, the Review Medical Board declared the petitioner unfit on account of '*Hypertension*'. Aggrieved by the said order, the petitioner has filed the present petition.

5. Learned counsel for the petitioner says that in similar circumstances, as in the present case, this Court had passed an order dated 23.01.2018 in W.P.(C) 6641/2017, permitting the petitioner therein to present himself at the Army R&R Hospital for a review and directed that if necessary, he be admitted for as much time as is considered necessary to verify his medical condition. A copy of the order dated 23.01.2018 passed in W.P.(C) 6641/2017 entitled "*Dheer Singh Vs Union of India & Ors.*" has been handed over by the learned counsel for the petitioner for our perusal.

6. Learned counsel for the respondents states on instructions that they have no objection to the petitioner being referred to the Army R&R hospital, New Delhi but it may be clarified that he be admitted in the hospital so that the effect of any medication for treatment of hypertension that could camouflage the result, wears off.

7. Accordingly, the present petition is allowed and disposed of with directions issued to the respondent No.3/CISF to give a written intimation of the date and time, on which the petitioner shall present himself at the Army R&R Hospital, New Delhi, for being admitted for

a period of one week or more/less, as considered necessary. The report of the Army R&R Hospital shall be forwarded directly to the respondent No.3/CISF with a copy marked to the petitioner. In the event the said report clears the petitioner of the condition for which he has been disqualified by the respondents, then the respondent No.3/CISF shall take immediate steps to process his candidature, subject to any other eligibility conditions as prescribed, with all consequential benefits to which he would be entitled in law.

8. The petition is disposed of alongwith the pending applications with no orders as to costs. We make it clear that the above order has been passed in the peculiar facts and circumstances of the case and shall not be cited as a precedent in the future.

9. A copy of the order be given **DASTI** under the signatures of the Court Master, to the counsels for the parties.

HIMA KOHLI, J.

PRATIBHA RANI, J.

FEBRUARY 26, 2018

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