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

+ W.P.(C) 1942/2018 and CM APPL. 8048/2018

CHAIL DAN CHARAN Petitioner

Through: Mr. Ankur Chhibber, Advocate.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr Anurag Ahluwalia, CGSC with
Ms. Tejaswita Sachdeva and Mr. Abhigyan
Siddhant and Mr. Abhimanyu Singh, Advocates
with SGT D. Srivastava and SQN Gourang Paliwal

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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26.04.2018

1. The present petition has been filed by the petitioner seeking quashing of the order dated 27.09.2017, whereby he has been declared unfit for recruitment to the post of Airman in Group X (Technical) and Group Y (Non-Technical).

2. The factual matrix of the case lies in a narrow compass. The respondents/Indian Air Force had issued an advertisement on 15.09.2016, inviting applications for recruitment to the subject post. On 07.02.2017, the petitioner had appeared in the examination and had undergone the adaptability Test-1. On 08.02.2017, the petitioner was called to participate in the adaptability Test-2. He also underwent the Physical Efficiency Test (PET) and was declared fit in both. On 27.07.2017, the petitioner was called

for a medical examination and declared medically unfit on the following four counts:-

- “i) *HALLUX VALGUS RT GREAT TOE.*
- ii) *VARICOCELE LT*
- iii) *DNS (LT)*
- iv) *CUBITUS VALGUS”*

3. On 27.09.2017, the petitioner was called to appear before the Appeal Medical Board, where he was declared medically unfit on the following two counts :-

- “i) *HALLUX VALGUS (RT) GREAT TOE.*
- ii) *VARICOCELE (LT)”*

4. Thereafter, the petitioner got himself examined at a Government Hospital, Mathura Das Mathur Hospital, Jodhpur and was declared fit for “*Hallux Valgus*”. The petitioner also got himself examined at Sharma Orthopaedic Centre, a non government hospital, where he was examined and declared fit for the other ailment.

5. On 09.11.2017, the petitioner got himself examined at the AIIMS, Delhi and was referred to the Department of Orthopaedic. The attending Doctor declared him fit vide prescription dated 14.11.2017 that records that there was no “*Hallux Valgus*” presence. Though the petitioner has not filed the relevant document, Mr. Anurag Ahluwalia has produced the records that reveal that the petitioner had visited Safdarjung Hospital, New Delhi on 20.11.2017 and the Doctor in the Department of Urology and Renal Transplant, Safdarjung Hospital, New Delhi had directed him to undergo

“Colour Doppler Scrotum”. The radiology report of the petitioner dated 20.11.2017 is as below:-

“USG findings reveal bilateral grade-I varicocele.”

6. Mr. Chhibber, learned counsel for the petitioner states that even after perusing the said report, the Doctor at Safdarjung Hospital gave a report that there was no indication for surgery as the petitioner did not suffer from any pain or any infirmity, as per the WHO criteria. Armed with the aforesaid report, the petitioner has filed the present petition raising a grievance that his candidature has wrongly been turned down for the subject post.

7. Mr. Ahluwalia, learned CGSC has produced the original records pertaining to the petitioner, which reveal that his radiology report clearly states that he is suffering from *“bilateral grade-I varicocele”*. Learned counsel submits that merely because the Doctor at Safdarjung Hospital did not recommend surgery for the petitioner, will not take away from the radiology report that shows that he is medically unfit.

8. For the reasons stated above, we are inclined to concur with the submissions made by the learned counsel for the respondents, particularly in light of the guidelines in the Manual of Medical Examination and Medical Boards (4th Edition: Sep 2010), that states in para -4.3.6 of Chapter 3 as follows:-

“4.3.6. During abdominal examination note will be made of any hepatic or splenic enlargement. Look for haemorrhoids, condylomata, presence of hernia or undescended testis, hydrocele, bubonocoele, varicocele or any other swelling of scrotum. These will be causes for rejection.”

9. In view of the aforesaid guidelines and the radiology report of the petitioner, we do not see any reason to interfere with the impugned order passed by the respondents, rejecting the candidature of the petitioner for the subject post.

10. The present petition is dismissed alongwith the pending application.

HIMA KOHLI, J

PRATIBHA RANI, J

APRIL 26, 2018

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