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

+ **W.P.(C) 2595/2018**

KAMAL SINGH

..... Petitioner

Through: Mr.Saahila Lamba, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.Rajesh Kumar, Adv.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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25.07.2018

1. The petitioner has filed the present petition praying *inter alia* for quashing of the order dated 23.02.2018, issued by the respondent No.2/SSB rejecting his request for a Review Medical Examination by a Medical Board on the ground that he submitted a '*fitness certificate from Community Health Centre i.e. below District Hospital*'.

2. Ms.Lamba, learned counsel for the petitioner submits that in the year 2016, the respondent No.2/SSB had issued an advertisement for filling up vacancies to the post of Constable (Driver) and the petitioner had applied for the same. Out of four stages of recruitment, the petitioner successfully cleared three stages between 08.02.2017 to 16.08.2018 i.e. PET, written examination and trade test. The fourth stage comprised of testing the medical fitness of a candidate. On

06.11.2017, the petitioner was got medically examined at the Composite Hospital, U.P., wherein he was declared unfit on three counts (a) *Tachycarida* (faster heart/pulse rate) (b) *Hypertension* (High Blood Pressure) and (c) *Tattoo on right forearm*. As a candidate has a right to seek a Review Medical Examination by filing an appeal before the Review Medical Board duly accompanied by a medical fitness certificate issued by a Medical Practitioner as prescribed, on 13.11.2017, the petitioner got himself medically examined at the Community Health Centre, Rewari wherein he was declared fit. Armed with the said certificate, the petitioner preferred an appeal before the Review Medical Board for a re-medical examination.

3. However, the respondent No.2/SSB did not accede to the request of the petitioner for a Review Medical Examination on the ground that the fitness certificate obtained by him from the Community Health Centre, could not be recognized as the said certificate was issued by an authority below the level of a District Hospital.

4. It is pertinent to note that before the respondents issued the rejection order on 23.02.2018, the petitioner had got himself medically examined at the Safdarjung Hopsital, Delhi on 02.02.2018, wherein, he was declared medically fit. In other words, the petitioner had submitted the said medical fitness certificate to the respondents much before the impugned order came to be passed. The grievance of the petitioner is that without considering the said certificate, the

respondents have proceeded to pass the impugned order. Hence the present petition.

5. On 19.03.2018, we had requested learned counsel for the respondents to obtain necessary instructions from the department. Today, learned counsel for the respondents refers to the Revised Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, as on May, 2015 and states that as per the said Guidelines, a candidate must submit the appeal in a prescribed performa so as to reach the appellate authority within a period of 15 days from the date of the medical examination. He states that in the present case, the petitioner was got medically examined on 06.11.2017 and the medical fitness certificate dated 13.11.2017 that he had enclosed with the appeal was not in terms of the prescribed performa and the subsequent certificate submitted by the petitioner as issued by the Safdarjung Hospital is beyond the prescribed timeline. Therefore, the request for a re-medical examination made by the petitioner, was rightly rejected.

6. It is pertinent to note that the petitioner before us is a resident of Village Buroli, District Rewari, Haryana and has applied for the subject post as a SC candidate. Looking at the rural background from which the petitioner hails and the fact that he is only a matriculate, we would have expected the respondents to have shown some leniency in a case like the present one. If the petitioner had submitted a medical certificate which was not in order, it was equally the responsibility of the respondents to have informed him within a reasonable time from

the date of receiving his appeal that the said certificate was not in order so that he could have made good the deficiency. No such steps were taken by the respondent/SSB till 23.02.2018, thereby leaving no time for the petitioner to have removed the defects within the timeline prescribed by the respondents for approaching the appellate authority for conducting a Review Medical Board.

7. We may add here that on questioning learned counsel for the respondents, he has confirmed on instructions that there are vacancies still available for the post of Constable (Driver) in the SC category.

8. In view of the aforesaid position, it is deemed appropriate to allow the present petition by directing the respondents to take into consideration the medical fitness certificate dated 02.02.2018 issued by Safdarjung Hospital, New Delhi and constitute a Review Medical Board for examining the petitioner medically. If the petitioner clears the medical fitness examination, then consequential orders of appointment shall be passed by the respondents. Compliances shall be made within two weeks from today.

9. The petition is disposed of.

HIMA KOHLI, J

REKHA PALLI, J

JULY 25, 2018

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