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

+ **W.P.(C) 3332/2018 & C.M.No.13121/2018**

AMAN SRIVASTAVA

..... Petitioner

Through: Mr.Shashank Deo Sudhi & Dr.Shashi
Bhushan, Advs.

versus

UNION PUBLIC SERVICE COMMISSION AND ORS.

..... Respondents

Through: Mr.Naresh Kaushik with Mr.Omung
Gupta & Mr.Devik Singh, Advs. for
R-1.
Ms.Shiva Lakshmi, CGSC with
Mr.Ruchir Ranjan Rai, Mr.Siddharth
Singh & Mr.Vivek Kr. Singh,
DC(Law) & Dr.Vivek Srivastava,
CMU, SG, Eye Specialist for R-2
& 3.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **12.07.2018**

1. The present writ petition has been filed by the petitioner praying, inter *alia*, for directions to the respondents to constitute a medical Board and examine him as per the guidelines and notifications of the UPSC and proceed to post him as an Assistant Commandant in Respondent No. 2/CRPF.

2. The brief relevant facts of the case are that on 12.04.2017, respondent No. 1/UPSC had published an advertisement inviting applications for appointment to the post of Assistant Commandant in Central Armed Police Forces (hereinafter referred to as 'CAPF'). The petitioner had applied for the said post and had successfully cleared the written test conducted on 23.07.2017. Thereafter, as per procedure, the petitioner filled up the detailed application form on 06.11.2017. On 19.11.2017, the petitioner appeared in the physical fitness test, where he was found fit and was therefore asked to appear before the Medical Board for examining his medical fitness where he was declared unfit by the Board on 20.12.2017, with the following observations:-

“multiple dot and blot haemorrhages (pre-retinal) in superior quadrant of retina (right eye).”

3. On the very next day i.e. on 21.12.2017, the petitioner was furnished with the reasons for declaring him medically unfit and was informed that in case he wished to file an appeal against the findings of the medical examination and apply for review medical examination, he must obtain the necessary medical certificate from a specialized Medical Practitioner in the concerned field by 5th January, 2018, failing which his candidature for the subject post would be treated as cancelled.

4. Immediately thereafter, the petitioner approached the Dr. Rajendra Prasad Centre for Ophthalmic Sciences at AIIMS, Delhi for a specialized opinion. On 30.12.2017, the petitioner was directed by the Doctors at AIIMS to undergo certain specialised medical tests before the course of his treatment was to be decided. On 31.12.2017, the petitioner applied to the respondents for a review medical examination by enclosing therewith the medical documents regarding his ongoing treatment in AIIMS.

5. Based on his application dated 31.12.2018, on 25.01.2018, the petitioner was, issued a call letter for a review medical examination that was proposed to be conducted on 06.02.2018. It is the case of the petitioner that, in the meantime, the Doctors at AIIMS had issued a medical fitness certificate in his favour stating, *inter alia*, that he was fit for physical activities. We may note that the aforesaid prescription sheet specifically states that the petitioner had undergone laser therapy for both his eyes and was advised to avoid jerks.

6. On 06.02.2018, when the petitioner appeared before the Review Medical Board constituted by the respondents, he was again declared unfit in respect of his eyes - the reason for being declared unfit was the same as had been mentioned earlier. It was also stated that '*lasered both eyes retina*' with a remark '*unfit from eye side*'.

7. On 07.02.2018, the petitioner again requested the doctor of the respondents to grant him medical fitness, which was denied, resulting in his filing the present petition.

8. Though a counter affidavit has not been filed by the respondents, Ms.Shiva Lakshmi, Central Government Standing Counsel is present along with the records and has handed over the original files, which we have perused. Keeping in view the nature of the relief, we have examined the records which reveal that the grounds for declaring the petitioner unfit in the review medical examination were the same as had been noted when the petitioner had initially undergone medical examination on 20.12.2017. Additionally, the petitioner having undergone laser therapy, before his review medical examination on 06.02.2018, it was also noted by the Review Medical Board that he had undergone laser treatment for retinal diseases in both the eyes and he was medically unfit from the angle of his eyes.

9. Learned counsel for the respondent nos.2 and 3 relies on the Guidelines for recruitment, medical examination in Central Armed Police Forces and Assam Rifles, revised as on May, 2015, issued by the Ministry of Home Affairs, Government of India and contends that the said Guidelines make it clear that a candidate having a history of laser surgery for retinal diseases has to be declared as unfit for appointment in the CAPFs. She particularly refers to para VIII of the aforesaid Guidelines that deals with amongst others, Night vision, corneal opacities, glaucoma, cataract surgery and retinal diseases. Our attention is drawn to Para (b) under the head of “Retinal diseases”, which reads as under:-

“b. History of retinal detachment, vitrectomy for any reason, and scleral buckling or laser therapy for any reason (except lattice degeneration without horseshoe tears) will be a cause for rejection.”

10. Learned counsel submits that the petitioner having undergone laser therapy for retinal diseases has rightly been declared unfit for being appointed to the subject post, which is in accordance with the Central Armed Police Forces and Assam Rifles, Revised Guidelines.

11. Having perused the medical records of the petitioner and in view of the aforesaid legal position, we are of the opinion that the rejection of the petitioner's candidature by the respondents cannot be faulted. The prayer made in the petition is declined. The petition is disposed of.

HIMA KOHLI, J

REKHA PALLI, J

JULY 12, 2018
gm/rd