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

+ W.P.(C) 8752/2018 & C.M. No. No.33627/2018 (for stay)

PRAMIT SINGH

..... Petitioner

Through: Ms.Mayuri Raghuvanshi, Mr.Vyom
Raghuvanshi & Ms.Sangya Negi,
Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Arun Bhardwaj, CGSC for UOI.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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19.09.2018

1. The petitioner has filed the present petition praying *inter alia* for issuing directions to the respondent no.2/Sashatra Seema Bal (SSB) to permit him to undergo a Review Medical Board and if he qualifies therein, include his name for recruitment to the post of Sub Inspector in the Delhi Police, CAPF (direct entry), subject matter of examination conducted by the respondents in June, 2017.

2. A glance at the facts of the case is considered necessary. In June, 2017, the respondent No.3/SSC had issued an advertisement for recruitment of Sub Inspectors in the Delhi Police, CAPFs and Assistant Sub Inspectors in the Recruitment Examination, 2017. The petitioner had applied for participating in the said examination and cleared the written examination as also the Physical Endurance Test/Physical Standard Test between July, 2017 to October, 2017. Thereafter, the petitioner had appeared in Paper-II on 19.03.2018, where he was declared provisionally qualified for appearing in

the Detailed Medical Examination (DME), for which he had appeared on 13.04.2018. On 14.04.2018, the petitioner was informed by the respondents that he was found unfit on the ground of being overweight by 7 kgs and on account of suffering from DNS [Deviation towards (lt)].

3. Aggrieved thereby, the petitioner had filed an appeal and enclosed therewith, a medical certificate obtained from the Government Hospital which stated that the DNS has been rectified on undergoing surgery. Pertinently, the said surgery was done on 24.04.2018. However, the respondents did not permit the petitioner to undergo a Review Medical Board. When the respondents declared the list of rejected candidates on 06.08.2018, along with the reasons furnished therein, the petitioner discovered that his name was included in the said list with a remark that his candidature was rejected being a post operative case. Aggrieved thereby, the petitioner has filed the present petition within one week, on 14.08.2018.

4. On the last date of hearing, we had requested Mr.Bhardwaj, learned counsel for the respondents to obtain instructions from the department. Today, learned counsel hands over the “Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles” issued by the Government of India, Ministry of Home Affairs (Police Division-II), as revised as on May, 2015. A perusal of the said Guidelines reveals that ‘Minor Acceptable Defects’ has been listed in para 7 and sub para (i) thereof states that *‘mild and moderate DNS with both nasal airways patient may not be rejected’*.

5. Learned counsel for the petitioner states that while declaring the petitioner as unfit at the time of issuing the impugned memorandum dated 14.04.2018, the respondents had not specified as to whether he was suffering

from a mild or moderate DNS and the observation made was limited to mentioning that the petitioner was suffering from DNS. She contends that, in any event, the petitioner had undergone a surgery for correction of DNS on 24.04.2018 and going by the very same Guidelines in Para 11 whereof, it has been clarified that the duration for fitness for any post operative cases relating to DNS and Nasal Polypectomy, would be one month, the petitioner ought to have been examined on expiry of one month. She submits that in terms of the aforesaid Guidelines, the petitioner would have been fit for undergoing a Review Medical Board within one month reckoned from 24.04.2018, the date of his surgery, i.e., by 23.05.2018 whereas the list of non-selected candidates was declared by the respondents, much later on 16.08.2018.

6. In view of the captioned Guidelines issued by the respondents, we are of the opinion that the respondents ought to have afforded an opportunity to the petitioner to appear before a Review Medical Board after 23.05.2018 i.e. on expiry of one month after he had undergone a surgery for DNS, for examining him qua the grounds mentioned in the impugned memorandum dated 14.04.2018 and if he was not found fit, only then turned down his candidature. In our view, any rejection prior thereto by refusing to grant him an opportunity to appear before the Review Medical Board was not justified or in consonance with the own Guidelines laid down by the respondents.

7. Accordingly, the present petition is allowed and the impugned list dated 06.08.2018 qua the petitioner is quashed and set aside. The respondents are directed to call the petitioner for a Review Medical Board within four weeks under written intimation to him. The petitioner shall

appear in the Review Medical Board at the venue and on the date and time as conveyed. In case, the petitioner is found fit, he shall be appointed to the subject post based on his merit position in the selection process. The entire process shall be completed within eight weeks.

8. The petition is disposed of alongwith the pending application.

HIMA KOHLI, J

REKHA PALLI, J

SEPTEMBER 19, 2018

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