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

+ **W.P.(C) 6641/2017 and CM APPL. 27599/2017**

DHEER SINGH

..... Petitioner

Through: Mr. Anuj Sharma, Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC with
Mr. Feroz Khan, CISF.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **23.01.2018**

1. The petitioner assails an order dated 18.07.2017 passed by the respondent No.3/CISF, rejecting his application for a re-medical examination on being disqualified for medical reasons during the process of recruitment of Sub-Inspectors in Delhi Police, CAPFs and ASI in CISF 2016 Examination. The petitioner has also challenged an order dated 21.04.2017 passed by the respondent No.2/SSC, declaring him unfit for recruitment to the post of SI in the CISF on 21.04.2017, on account of suffering from (i) low near eye, (ii) tachycardia, (iii) hypertension and (iv) tremors.

2. Briefly stated, the facts of the case as gathered from the records are that on 09.01.2016, the respondent No.2/SSC had issued an advertisement

for recruitment of Sub-Inspectors in Delhi Police, CAPFs and ASI in the CISF. The petitioner had participated in a written test (Tier-I) on 05.06.2016. On 18.12.2016, the petitioner was called by the respondents to undergo a physical endurance test (PET). On qualifying the said test, the petitioner was called for a Tier-II examination on 14.09.2016. On 21.04.2017, the petitioner was subjected to a medical examination at the Composite Hospital, BSF, Jodhpur and was declared unfit on the ground that he was suffering from (i) low near eye, (ii) tachycardia, (iii) hypertension and (iv) tremors. (Annexure P-2).

3. The petitioner submitted a Medical Fitness Certificate dated 22.04.2017 after appearing before a doctor at the Government Hospital at Jodhpur, who cleared him of the first ailment, namely, low near eye vision. The said fitness certificate also recorded that the petitioner had undergone an ECG twice, his pulse rate was regular and no tremors were detected. Armed with the said Certificate, the petitioner submitted an application to the respondents for a Review Medical Examination, which was conducted at the Composite Hospital, CRPF Camp, Jharoda Kalan on 12.07.2017. As per the report of the Review Medical Board, the petitioner was found fit from the 'eye side' and no tremors were observed. However, he was declared unfit on the other two counts, i.e., (i) Tachycardia and (ii) Hypertension.

4. Counsel for the petitioner submits that the petitioner had got himself examined at the Lok Nayak Hospital, Delhi on 21.07.2017 and at the RML Hospital, Delhi on 27.07.2017 and both the Govt. Hospitals had given reports in his favour. He refers to the view taken by the Doctors as recorded in the Out Patient Cards issued to the petitioner by both the Hospitals to

contend that he had been thoroughly examined and was found fit in all respects. When the said reports were submitted by the petitioner to the respondent No.3/CISF under cover of letter dated Nil requesting for a re-examination (Annexure P-8), the said request was turned down by the respondent No.3/CISF vide letter dated 18.07.2017 stating *inter alia* that another review medical examination could not be conducted in the light of the instructions issued in the Employment Notice dated 09.01.2016. Aggrieved by the aforesaid decision, the petitioner has filed the present petition.

5. Learned counsel for the petitioner submits that in the initial medical examination conducted by the respondents, they had arbitrarily declared the petitioner unfit on four grounds, which were reduced to two grounds by the Review Medical Board. He contends that in view of the independent opinions obtained by the petitioner from two Government Hospitals, he may be permitted to appear before the R&R Army Hospital, New Delhi, for a re-examination.

6. A counter affidavit in opposition to the present petition has been filed by the respondents. Mr. Anurag Ahluwalia, learned counsel for the respondents submits that the advertisement published by the respondent No.2/SSC in respect of the recruitment had clearly stated in Note 3 that the decision of the Review Medical Board is final and no appeal shall be entertained thereafter. He states that the petitioner has exhausted all the remedies available to him and the respondents cannot be called upon to have him re-examined in the Army R&R Hospital, particularly, when the Review Medical Board that had re-examined him comprised of senior and experienced Medical Officers including specialists in their respective fields.

7. We have heard the counsels for the parties and examined the records. We are of the opinion that having regard to the fact that the petitioner was subsequently examined by doctors at two Government Hospitals in Delhi who had given favourable reports, he is entitled to one last opportunity by appearing before a Review Medical Board at the Army R&R Hospital, Delhi. To allay the apprehension expressed by learned counsel for the respondents that the petitioner could be on medication for the treatment of hypertension, which would camouflage the result, we deem it appropriate to direct the respondent No.3/CISF to approach the Army R&R Hospital, New Delhi, with a request to admit the petitioner for a period of one week or any length of time considered necessary by the Medical Board of the said Hospital, so that the effect of the medication, if any, for the treatment of hypertension, wears off and a clear picture emerges with regard to his medical condition, in the light of the two disabilities mentioned above.

8. 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 both the conditions 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.

9. The petition is disposed of alongwith the pending application, 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.

DASTI to the counsel for the respondents.

HIMA KOHLI, J

REKHA PALLI, J

JANUARY 23, 2018

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