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

+ **W.P.(C) 7875/2017**

SANJAY YADAV

..... Petitioner

Through: Mr. R.K. Shukla, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Sarfaraz Ahmed, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **29.01.2018**

1. The petitioner has prayed for setting aside an opinion given by the Medical Board dated 15.07.2017 to the effect that he should not be allowed to continue in service with the respondents/ITBP as his tests were suggestive of alcohol dependence.
2. On 06.09.2017, counsel for the respondents, who had appeared on advance notice, had stated on instructions that the petitioner shall be taken to AIIMS Hospital, New Delhi, for an examination. The matter was adjourned to 26.09.2017 with a request made to AIIMS Hospital to examine the petitioner and submit a report in a sealed cover to the respondents, which was directed to be produced on the next date of hearing.
3. On 26.09.2017, the Medical Report of the petitioner was received from AIIMS Hospital in a sealed cover that was opened and a copy made available to the counsel for the respondents. As per the said report submitted by a Two Member Committee constituted by AIIMS Hospital, the petitioner was assessed in detail and investigated and his medical examination did not suggest any finding indicating alcohol intoxication at

the time of his examination or the presence of use of alcohol in dependent pattern over the past 12 months. The liver function tests (SGOT, SGPT, Serum bilirubin level) and the urine test of the petitioner were also within normal range.

4. In view of the aforesaid report, counsel for the respondents had stated that the Department has decided to conduct a Special Review Medical Board of the petitioner at the Base Hospital, Delhi.

5. Today, counsel for the respondents hands over an Office Memorandum dated 14.12.2017 as also a copy of the Board proceedings conducted in respect of the petitioner on 27.12.2017, wherein the Board has recommended that the petitioner should be kept at the Battalion Headquarters under constant supervision of the Unit Medical Officer and be reviewed every month by a psychiatrist. Otherwise, the petitioner has been declared fit for service in the ITBP and has been categorised as S3(T-24), fit for duties without firearm. The said Office Memorandum alongwith the report of the Board of Medical Officers is taken on record.

6. In view of the above developments, the impugned order dated 15.07.2017 is quashed and set aside. The respondents shall ensure that the posting order of the petitioner is issued within two weeks from today. The petition is allowed and disposed of.

HIMA KOHLI, J

REKHA PALLI, J

JANUARY 29, 2018/rkb
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