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

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SHRI ROKI KUMAR

W.P.(C) 13383/2018

..... Petitioner

Through: Ms Archana Ramesh and Mr M.K.
Ramesh, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Manik Dogra, Senior Govt.
Counsel with Mr Dhruv Pandey,
Advocates for R-1 to 4.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

12.12.2018

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1. This is a writ petition seeking the quashing of the letter dated 9th August, 2016 issued by the Respondents informing the Petitioner that pursuant to an enrolment medical examination on that very date i.e. 9th August, 2016, he was found unfit for enrolment into the Navy. The two disabilities, as noticed in the said letter, are as under:

- (i) Varicocelle (LT); and
- (ii) Haperhydrosis.

2. The writ petition is completely silent as to what the Petitioner did thereafter except saying in paragraph 6 as under:

“6. That in order to do a sincere medical introspection he reported to AIMS, New Delhi where he was found medically FIT.”

3. On the basis of the medical clinical note of AIIMS dated 23rd October, 2018, which purportedly states that his Mild Palmar Hyperhydrosis is not a contradistinction for Navy- SSR, learned counsel for the Petitioner insists that the Petitioner be sent for a fresh medical examination to Army Hospital (R&R) Centre. In support of her submissions, she placed reliance on three orders of this Court – the first dated 23rd October, 2013 passed in W.P.(C) No. 5774/2013 (*Shri Krishan Kumar v Union of India*); 10th April, 2015 passed in W.P.(C) No.3389/2015 (*Vikash Kumar v Union of India*); and 18th January, 2018 in W.P.(C) No. 6203/2017 (*Chandan Kumar Singh v Union of India*).

4. The Court finds that the facts in all these cases, cited by the learned counsel for the Petitioner, are different. One feature is that each of these Petitioners approached the Court for relief soon after they were told that they were unfit for enrolment. In the present case, the Petitioner has chosen to wait for more than two years to do that.

5. In a case where the grievance was about declaration of unfitness on medical grounds, a gap of two years in approaching the Court can be fatal to the Petitioner particularly since a lot changes take place within two years. For instance, in *Vikash Kumar v Union of India* (*supra*), the order itself reflects that having been subjected to a medical fitness test on 18th February, 2015, the Petitioner approached this Court in 2015 itself. Again, in the order dated 18th January, 2018 (*Chandan Kumar Singh v Union of India*), it is

seen that when the Petitioner there was found medically unfit on 17th January, 2017, he sought a review medical board, which confirmed his disability on 29th May and 21st June, 2017 and soon thereafter, the Petitioner filed a petition in this Court.

6. Consequently, the Petitioner can seek no benefit from the aforementioned decisions, as all the cases turn on their own facts.

7. Despite repeated questions to learned counsel for the Petitioner, this Court has not got any convincing answer as to why the Petitioner waited for over two years to approach the Court for relief and in particular why he did not seek a review medical board which could have helped the Court to come to a conclusion whether his disability was serious enough and fell within the notified categories for disqualification.

8. In the circumstances, the Court is not inclined to interfere in the matter. The writ petition is accordingly dismissed, but in the circumstances, with no orders as to costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 12, 2018

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