

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP NO. 8530 of 2019(O&M)
DATE OF DECISION: 22.07.2019**

Anil Kumar

...Petitioner

versus

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

**Present : Mr. Surinder Singh Duhan, Advocate,
for the petitioner.**

**Mr. Vivek Chauhan, Advocate,
for the respondents-Union of India.**

ARUN MONGA, J. (ORAL)

1. The petitioner submitted an online application form(Annexure P-1) on 08.07.2018 for selection as Airmen for Group 'X' Trade and Group 'Y' Trade in India Air force for its intake 02/2019. Pursuant thereto, an online test was conducted and the petitioner was shortlisted for Phase-II in Group 'X' Trade. However, on his medical examination, he was declared unfit on account of Varicose Vein(Left) by the Medical Board. The petitioner later appeared before an Appellate Medical Board. Vide impugned medical certificate dated 22.02.2019 (Annexure P-5), even the Appellate Medical Board declared him unfit.

2. The petitioner contends that he has been wrongly declared as medically unfit as in an earlier round of selection as Airmen in Group 'X' when his medical examination was conducted vide medical fitness certificate dated 12.09.2018(Annexure P-6) issued by the Medical Board, he was declared

medically fit. The same Medical Board has now declared him as medically unfit vide a later medical certificate dated 22.02.2019(Annexure P-5)

3. In the return filed by the respondents, the prayer of the petitioner for medical re-examination has been opposed on the ground that he has already been evaluated twice at different Armed Forces institutes by different Doctors, which includes one specialist each in the respective fields. Both the times consistent finding has been that there is presence of Varicose Vein(left). There is, therefore, no doubt in the unfitness of the petitioner. Accordingly, no further review is required as the same will hamper the entire recruitment process. As regards the earlier medical fitness relied upon by the petitioner, it is stated that said certificate was issued to him for a previous enrolment intake. The status of medical fitness can change on day to day basis. A candidate has to be medically fit on the day of his medical examination and any previous medical fitness cannot be considered for subsequent enrolment.

4. Having heard learned counsel for the parties, I am of the opinion that *prima facie* it seems incongruous that while on the one hand, just less than six months ago, the petitioner was found medically fit for the same selection but he could not be selected owing to his low overall merit. Now, when his performance in overall merit has got better, he has been rejected as medically unfit vide certificate dated 22.02.2019. The earlier medical certificate dated 12.09.2018 clearly states that the same is valid for six months from the date of issue and a candidate will be subjected to re-medical examination, if called for enrolment after six months.

5. The petitioner in the present case has been subjected to re-medical examination prior to his enrolment before the expiry of six months from the date of issuance of the earlier medical certificate. Be that as it may, without going into the

issue, as to whether or not the petitioner could have been subjected to another medical examination prior to the expiry of six months of earlier medical certificate and/ or whether the medical certificate issued qua previous intake/ recruitment can be relied upon for a subsequent intake, given that there are conflicting medical reports by the Medical Board qua the petitioner, the writ petition is disposed of with a direction to the respondents that in the interest of justice, the petitioner be subjected to fresh medical examination by constituting a Medical Board of Specialists at Command Hospital or Army Hospital Research and Referral Institute or All India Institute of Medical Sciences, Delhi or Post Graduate Institute of Medical Education and Research, Chandigarh or any other institute, which the respondents may so wish.

6. Let the needful be done within a period of 30 days from the date of receipt of a certified copy of this order.

7. In the event, the petitioner is found medically fit, he shall be accorded the benefit of his merit as per the merit list prepared by the respondents.

8. Disposed of in above terms.

(ARUN MONGA)
JUDGE

July 24, 2019
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| 1. | Whether speaking/ reasoned | Yes/ No |
| 2. | Whether reportable | Yes/ No. |