

Sr. No.106

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

CM No.14618-CWP of 2019 in/and

CWP No.17834 of 2019

Date of Decision: 14.10.2019

Sunil Kumar

... Petitioner

Versus

The Union of India and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. R.D.Bawa, Advocate,
for the petitioner.

Mr. Vivek Chauhan, Advocate,
for respondent No.1.

ARUN MONGA, J.(ORAL)

CM No.14618-CWP of 2019

This is an application for preponement of date of hearing in the main case from 14.04.2020 to an early date.

For the reasons stated in the application, the same is allowed.

Main case is taken up on Board today itself.

Main case

Petitioner herein seeks issuance of a writ in the nature of certiorari to quash the orders dated 24.04.2019 and 13.06.2019 Annexures P-2 and P-6 respectively, vide which he has been declared medically unfit on account of less dental points and his candidature was cancelled. Further prayer has been made for

issuance of a writ in the nature of mandamus directing the respondents to appoint the petitioner on the post of Driver MT (OG) as he was wrongly declared medically unfit.

2. Succinctly, the facts are that the petitioner applied for the post of Driver MT (OG) as per advertisement No.01/2016, which was published by the respondents. He possessed the requisite qualifications for the post and was held eligible.

3. Having cleared all the stages of the selection process, he was finally called for a medical test. To the surprise of the petitioner, he was declared medically unfit on 30.01.2019 (Annexure P-2), on account of “over weight with central obesity, Submucous oral Fibrosis and Acne Valgus and less dental points (13/22)”. Petitioner was given 60 days time for review medical. Accordingly, the petitioner reported at GREF Centre for review medical and was referred to MH, Kirkee for the same on 27.02.2019. On 27.03.2019, after review at MH Kirkee, the Authorities found him to be unfit on the ground of less dental points (13/22).

4. The petitioner got himself medically examined from the Punjab Health System Corporation, CHC, Sujanpur on 06.05.2019, where it is reported that no abnormality is found. He also got his dental check up from the Punjab Health System Corporation, CHC Kahnuwan, Gurdaspur (Punjab) on 08.05.2019 and there also it is declared that he has normal teeth and normal gums vide Annexures P-3 and P-4 respectively.

5. The petitioner has caused issuance of a legal notice

dated 17.05.2019.

6. Vide letter dated 13.06.2019, respondents had cancelled the candidature of the petitioner for recruitment. Hence, the writ petition.

7. The respondents have opposed the claim of the petitioner by saying that decision of the Review Medical Board is final and binding.

8. I have heard counsel for both the parties and have gone through the pleadings.

9. In view of the conflicting medical reports of the petitioner as reflected from the impugned order dated 13.06.2019 (Annexure P-6) and the medical examination of the petitioner carried out at a Civil Hospital at Gurdaspur as per medical reports contained at Annexures P-3 and P-4, respondents are directed to conduct fresh medical examination of the petitioner particularly in respect of the dental points owing to which he was declared unfit in the review medical conducted at Military Hospital, Kirkee (Pune).

10. Respondents are at liberty to constitute a Medical Board of such experts as it may deem fit. It is, however, made clear that direction is given to conduct fresh medical examination of the petitioner without expressing any opinion on the merits of medical fitness of the petitioner.

11. In case, petitioner is found medically fit by the experts of the Medical Board to be constituted by the respondents, he shall be accorded benefit of his merit and appropriate order

shall be passed accordingly subject, of course, to any vacancy being available qua the post for which petitioner had applied.

12. Let the needful be done within a period of 2 months from the date of receipt of a certified copy of this order.

13. Disposed of in above terms.

14.10.2019
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No