

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

CWP-11146-2018

Date of Decision: 07.11.2019

Kuldeep Singh

... Petitioner

vs.

Union of India and Ors

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Dharamveer Phour, Advocate, for the petitioner.

Mr. Chander Mohan Sharma, Advocate,
for the respondent(s)-UOI.

ARUN MONGA, J.(ORAL)

Inter alia issuance of a writ in the nature of *certiorari* has been sought herein to quash review Medical Examination dated 01.03.2018 (Annexure P-9).

2. I have heard the rival contentions of the parties and have conjointly perused the pleadings alongwith relevant record appended thereto.

3. The only specious and ostensible plea of rejection of the petitioner is on the ground that his signature on the medical fitness certificate dated 14.11.2017, issued by the competent Medical Officer declaring him medically fit, has not been attested by the Medical Officer.

4. A bare perusal of the said medical fitness certificate reflects that there is a photograph of the petitioner affixed on the same alongwith his thumb impression. Both the photographs and the thumb impression have been attested by the Medical Officer. The position, thus, emerges is that neither the identity of the petitioner is in dispute nor the thumb impression which has been attested by the Medical Officer. The impression of thumb, in all likelihood, would have been obtained before the Medical Officer and

then only the same has to be attested.

5. As far as non attestation of the signatures is concerned, the same seems to have been inadvertently omitted by the Medical Officer. It defies complete logic that when the identity of the petitioner is not disputed then for no fault of his, Review Medical Board declared him medically unfit who, otherwise, is more meritorious than the last selected candidate having secured 45 marks as against 53 marks secured by the petitioner in his category.

6. Learned counsel for the petitioner submits that as far as the position of the vacancy is concerned, the conceded position in the return filed by the respondents, particularly, para 14 thereof reflects that 209 posts were lying vacant due to non-availability of competent candidates.

7. In view of my aforesaid discussion and the reasons contained therein, the writ petition is allowed. Order dated 01.03.2018 (Annexure P-9) is quashed with a direction to the respondents to consider the candidature of the petitioner by according him the benefit of his merit and by giving credence to the medical certificate dated 14.11.2017 (Annexure P-5) without insisting for attestation of his signatures by the Medical Officer.

8. Let the needful be done within a period of three months subject to availability of the vacancy as on today. It is made clear that in case vacancies are available, one post of Driver shall be kept vacant till appropriate orders are passed by the Competent Authority on furnishing of certified copy of this order.

07.11.2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No