

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

**CWP No. 18534 of 2016 (O&M)
DATE OF DECISION : 01.05.2019**

Sandeep

...Petitioner

versus

Union of India and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Nikhil Anand, Advocate
for the petitioner

Mr. B.S. Kanwar, Advocate
for respondent-UOI

ARUN MONGA, J. (ORAL)

1. Petitioner herein, inter-alia, seeks issuance of a writ in the nature of mandamus directing the respondents to consider him for appointment as 'Senior Secondary Recruit' in the Indian Navy, since he was wrongly declared medically unfit.

2. Succinctly, the facts first. Petitioner applied for the post of 'Senior Secondary Recruit' as per the advertisement (Annexure P-1), published in November, 2015. He possessed the requisite qualifications for the post and was held eligible and pursuant thereto successfully qualified the written test conducted by the respondents. He also cleared the Physical Fitness Test and was subsequently called for a Medical test. He appeared for the

same on 16.03.2016 at Ambala, Haryana and was declared medically fit.

3. The petitioner was selected provisionally for 2016-02 batch subject to final Medical Examination to be conducted at INS Chilka, Odisha, for which he appeared on 10.08.2016. To the surprise of the petitioner, he was declared medically unfit vide certificate dated 10.08.2016 (Annexure P-5), on the ground of suffering from 'Molluscum Contagiosum'. No opportunity of review medical was provided. The petitioner made representation dated 14.08.2016 (Annexure P-7) against the decision of the medical board. He also filed an appeal, but the same was not adverted to by the respondents.

4. Thereafter, petitioner got himself medically examined from AIIMS, New Delhi. As per medical certificate of AIIMS (Annexure P-6), he was not found suffering from any permanent deformity other than a minor infection of 'Acne Vulgaris', which was easily treatable. The petitioner then again submitted a representation to the respondents, but that too was not adverted to. Hence the present writ petition.

5. The respondents have controverted the stand of the petitioner that the present writ petition is not maintainable as this Court lacks the territorial jurisdiction. The medical test was conducted at INS Chilka, Odisha under the directions of respondent No.3, having office at New Delhi. It is further stated that the guidelines for conducting the medical examination were

followed and the petitioner was rightly declared medically unfit on the basis of the standards set for the Officers and Sailors of the Indian Navy.

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

7. At the outset, the contention raised by the respondents that this Court lacks jurisdiction is not sustainable. In view of Annexure P-5, a letter was sent to the petitioner at Hisar, whereby he was declared medically unfit. Even otherwise, the initial selection process as well as the preliminary medical test were conducted in Haryana, which comes under the territorial jurisdiction of this Court. Hence, the writ is maintainable.

8. The petitioner was not found suffering from 'Molluscum Contagiosum' in the medical examination conducted by AIIMS, Delhi which is country's most premier medical institution. There is thus a conflict between the medical board reports of respondents and AIIMS. Moreover, the opportunity of review medical was also not accorded to the petitioner, which is 'unfair' on the part of respondents.

9. In the premise, in view of the conflicting medical reports, the respondents are directed to conduct another medical examination of the petitioner, at any hospital of their choice, preferably at Army Research and Referral Hospital, New Delhi or AIIMS, New Delhi.

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

(ARUN MONGA)
JUDGE

May 01, 2019
shalini

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No