

**Sr. No. 238
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.2594 of 2017 (O&M)

Date of Decision: 26.03.2019

Sandeep Siwach

... Petitioner

Versus

Union of India and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Hemen Aggarwal, Advocate,
for the petitioner.

Mr. Sunil Kumar Sharma, Senior Panel Counsel,
for the respondent-UI.

ARUN MONGA, J.(ORAL)

The present writ petition has been filed, *inter alia*, for issuance of a writ in the nature of certiorari to quash the Medical Review Certificate dated 26.09.2016 (Annexure P-4), whereby the petitioner was found unfit for the post of Store Keeper (Technical) as he was suffering from Hyper Hydrosis.

2. Learned counsel for the petitioner contends that the petitioner had successfully qualified the written examination followed by physical fitness test and consequently was invited for medical examination. In the medical examination, he was declared to be medically fit. However, there was a delay of 180 days attributable to respondents, in deputing the petitioner for training as Store Keeper (Technical). As a consequence, he was once again asked to undergo a fresh medical examination and in the second round of medical examination, he was declared unfit owing to the alleged Hyper Hydrosis.

3. Per contra, learned counsel for the respondent-Union of India submits that as per the Army Rules, in case there is delay of 180 days in deputing a candidate for training, then a fresh medical examination is required to be conducted. He fairly concedes that delay in the present case was due to non-availability of seat at training centre, which admittedly could not be attributed to the petitioner.

4. On the other hand, learned counsel for the petitioner contends that pursuant to his rejection in the second medical examination, he has got himself medically examined at Post Graduate Institute of Medical Sciences (PGIMS), Rohtak and Government Medical College and Hospital (GMCH), Sector 32, Chandigarh and he was not found having Hyper Hydrosis as alleged. He further contends that there has been delay on the part of the respondents to send the petitioner for training. There was no question of his being rejected as, at the relevant time, he did not suffer from any such Hyper Hydrosis. He, in any case, contends that the second medical review was conducted without adopting any scientific parameters.

5. On a query posed by the Court, Major Dr. J.P.Saikia, who is present in Court, working as a 'Medical Officer' in Army Medical Corps and is a qualified physician, submits that no scientific parameters are required for diagnosing the disease of Hyper Hydrosis. He submits that the same is diagnosed simply by rubbing hands and observing with the naked eye.

6. Be that as it may, without going into the merits of the

contention of scientific parameters having been adopted or not, suffice to say that, in the present case, the petitioner had been initially found medically fit, but for no fault of his, delay was caused in sending him for the training. Later on, he was found by the second Medical Board of the respondents as suffering from Hyper Hydrosis and medically unfit. Thereafter, the petitioner underwent medical examination from PGIMS Rohtak and GMCH Sector-32, Chandigarh, who found that the petitioner was not suffering from the said disease. Considering the facts in entirety in fairness to the parties, the respondents are directed to conduct a fresh medical examination by constituting a Medical Board at All India Institute of Medical Science or Command Hospital, Hisar or PGIMER, Chandigarh or at the Army Hospital Research and Referral Institute or any other institute, which the respondent may so wish.

7. Let the needful be done within a period of two months from today.

8. In case, the petitioner is found medically fit then he would be given the benefit of his earlier selection and deputed for training, in accordance with law, within a period of two months thereafter.

9. With these observations, the present writ petition is disposed of.

(ARUN MONGA)
JUDGE

26.03.2019

vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No