

Sr. No. 239

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

**CWP No.2628 of 2017 (O&M)
Date of Decision: 26.03.2019**

Ashok Kumar

... Petitioner

Versus

Union of India and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. P.K.Sharma, Advocate,
for the petitioner.

Mr. Varun Issar, Advocate,
for the respondents.

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 rejection slip dated 19.07.2016 (Annexure P-5), whereby the petitioner was declared medically unfit for selection to the post of 'Constable Driver' in Indo Tibetan Border Police Force (ITBP).

2. Learned counsel for the petitioner contends that the medical unfitness, attributed to the petitioner, is untenable in view of the conflicting medical reports given by the Medical Board constituted by the respondent-ITBP, as is reflected from rejection slip dated 19.07.2016 (Annexure P-5), provided to the petitioner and the one produced by learned counsel for the respondents dated 15.09.2016 (Annexure R-2), which was not provided to the petitioner. He submits that Annexure R-2 reflects that petitioner's

vision is 6/9.

3. Learned counsel for the petitioner contends that in an earlier round of medical examination (Annexure P-5), petitioner was found to have vision of 6/12, which was later changed to 6/9, in a subsequent medical examination (Annexure R-2).

4. Learned counsel for the petitioner submits that the petitioner also had got himself medically examined at Civil Hospital, Narnaul and as per the certificate issued by the Deputy Civil Surgeon (on behalf of Civil Surgeon), Narnaul, he was found to have 6/6 vision in both eyes. He submits that the petitioner subsequently was examined at Vydehi Institute of Medical Sciences and Research Centre Hospital, Nallurahalli, Bangalore where Ophthalmologist conducted a vision test and found him fit as per the medical certificate dated 05.11.2016 (Annexure P-9).

5. Per contra, learned counsel for the respondents submits that it is a settled position that this Court should not generally substitute its own discretion over the opinion of the experts. He submits that, in the present case, the medical examination of the petitioner was conducted by a Medical Board comprising of 3 Eye Specialists, as is reflected from findings of Review Medical Examination Board (Annexure R-2). He submits that the petitioner has got himself examined from Civil Hospital after rejection by the Medical Board of Specialists, and in all likelihood, he would have undergone a treatment to get his vision fixed.

6. Having heard the rival contentions of the learned counsels for both the parties, I am of the view that it is highly

unlikely that vision can be fixed within a short time. The petitioner was rejected on the ground of defective vision on 19.07.2016 and he himself had got examined at Civil Hospital, Narnaul on 22.07.2016.

7. In Annexure P-5, the petitioner was found to have vision of 6/12 and in Annexure R/2, he was found to have vision of 6/9. In any case, without going into the merits of the conflicting medical opinions dated 19.07.2016 (Annexure P-5) given by the Medical Board of the respondents and Government Hospital, Narnaul dated 15.09.2016 (Annexure R-2), suffice to say, that there is variation of vision within a short span of two months. Considering the overall circumstances, the respondents are directed to conduct a fresh medical examination of the petitioner by constituting a Board of Medical Experts at Command Hospital, Chandimandir or PGIMER, Chandigarh or Army Hospital Research and Referral Institute, as per their choice.

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

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