

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

Sr. No.136

**CWP No.24487 of 2019
DECIDED ON: 05.09.2019**

VINEET MALIK

..PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Raj Kapoor Malik, Advocate, for the petitioner.

Mr. Vivek Chauhan, Advocate,
for UOI.

ARUN MONGA, J. (ORAL)

In this petition, the petitioner is aggrieved against his being declared medically unfit by the Appeal Medical Board (Annexure P-2) constituted by the Indian Air Force for the purpose of selection as Airman.

2. The learned counsel for the petitioner contends that after his rejection by the Appeal Medical Board, he subsequently got himself medically examined at Postgraduate Institute of Medical Education and Research, Chandigarh (for short 'PGIMER'). Pursuant thereto, he has been declared fit, as per medical certificates issued to him. Learned counsel for the petitioner also contends that the petitioner is entitled for one more opportunity to prove his medical fitness.

CWP No.24487 of 2019

3. *Per contra*, learned counsel for the respondents contends that petitioner has been declared unfit by the First Appeal Medical Board vide certificate dated 27.02.2019 (P-2).

4. Learned counsel for the petitioner also relied on a Division Bench judgment of Delhi High Court in W.P. (C) 9239/2016 wherein the petitioner was similarly situated and was found unfit due to cardio condition by the Appeal Medical Board. The High Court directed re-examination of the petitioner to be conducted by Army Research and Referral Hospital, New Delhi which is an Armed Forces Medical Institution. It would be instructive to reproduce the relevant extract of the judgment, *ibid*, as below:-

“The letter requiring the petitioners to appear before the Appeal Medical Board clearly stated that they were to be subjected to complete Medical examination afresh. This would necessarily mean conducting a fresh ECG as well. The medical disqualification by the Appeal Medical Board without proper examination of the candidates concerned by conducting an ECG, cannot be sustained.

The writ petition as well as application are disposed of by directing the respondent- authorities to refer the candidates to the Army Research and Referral Hospital in New Delhi for constitution of a board of experts which shall include a Cardiologist, to assess the medical condition of the petitioner after conducting ECG on them. Needless to mention that the Medical Board may conduct such other tests as may be deemed appropriate.”

CWP No.24487 of 2019

5. In a similar situation, a Division Bench of this Court, in LPA No.654 of 2015 also observed as below:-

“In view of the fact that the appellant has been declared medically fit by the Medical Boards constituted by the Post Graduate Institute of Medical Education and Research, Chandigarh and All India Institute of Medical Sciences, New Delhi vide certificates dated 25.03.2015 [P-5] and 05th May, 2015 [Photostat copy placed on record], we are of the considered view that the respondent – Authorities are required to either constitute a Review Medical Board to re-consider the medical fitness of the appellant or they may verify the original medical certificates relied upon by the appellant. Let an appropriate decision in this regard be taken within one week and if the appellant is found medically fit, desirability of offering him appointment shall also be considered within one month thereafter.”

6. In the light of above views of this Court and the Delhi High Court, I am inclined to agree to the contention of learned counsel for the petitioner. Accordingly, the present petition is disposed of with the direction to respondent(s)/ Commanding Officer, Airmen Selection Centre, Ambala Cantt (Haryana) to refer the petitioner to the Army Research and Referral Hospital, New Delhi for re-examination by a board of experts which shall include the relevant specialists to assess the medical fitness of the petitioner.

7. Needless to say that the Medical Board so constituted is at liberty to conduct any test as it deems appropriate. The selection process to

CWP No.24487 of 2019

be carried out shall abide by medical report furnished pursuant to the medical examination of the candidates by the Army Research and Referral Hospital, New Delhi.

8. It is expected that the Medical Board, as directed above, shall be constituted as expeditiously as possible. It is also made clear that the result of the medical examination, per se, would not be construed as conferring any right on the petitioner for his appointment.

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

05.09.2019

Ankur

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No