

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

CWP No.34117 of 2019 (O&M)

Date of Decision: 22.11.2019

Sumit

... Petitioner

Versus

Union of India and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

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

ARUN MONGA, J.(ORAL)

Petitioner herein seeks issuance of a writ in the nature of certiorari quashing the Medical Certificate dated 30.08.2019 (Annexure P-2) for selection as Airman vide which the petitioner has been held medically unfit and further direction to the respondents to re-conduct medical examination of the petitioner.

2. Succinctly, the facts are that the petitioner participated in the selection process for the selection as Airmen. Having cleared written test held on 14.03.2019 at Chandigarh followed by the physical fitness and interview conducted by respondent No.5 at Jodhpur, he was finally called for a medical test which was held at SMC 11 Air Force Hospital Hindon Ghaziabad. However, he was declared medically unfit on 09.07.2019 and referred to the Appeal Medical Board for medical examination at Station Medicare Centre old Pali Road Air Force Station Jodhpur. Petitioner meanwhile also got himself examined from the Siwatch Multispeciality Hospital,

Rohtak, Noble Heart Superspeciality Hospital on 24.07.2019 and 14.08.2019. Thereafter, petitioner also got examined himself from Post Graduate Institute of Medical Science, Rohtak (PGI, Rohtak) on 20.08.2019 and all his medical reports were found normal. Copies of the medical reports are annexed as Annexure P-3 to P-5. On the other hand, Vide Annexure P-2 Appeal Medical Board declared the petitioner unfit on account of (i)Eco Abnormality [T Lead III AVR] (ii) CNS Review [Irregular Rhythm].

3. The petitioner being son of ex-servicemen, then got himself examined at the Army Hospital Research and Referral Institute, New Delhi which found the petitioner medically fit vide medical examination reports (Annexures P-6 to P-7).

4. Notice of motion.

5. On advance service of the petition, Mr.Sunil Kumar Sharma, Advocate, for respondent-UOI appears and accepts notice on behalf of the State.

6. The learned counsel for respondents opposes the claim of the petitioner citing decision of the Appeal Medical Board as final and binding.

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

8. In view of the conflicting medical reports of the petitioner as reflected from the Medical Unfitness Certificate dated 30.08.2019 (Annexure P-2) issued by the Medical Board/Appeal Medical Board constituted by respondents N.3 and 4 viz.a.viz. the medical reports of Post Graduate Institute of Medical Science,

Rohtak (PGI, Rohtak) and Army Hospital Research and Referral Institute at New Delhi contained in Annexures P-5 to P-7, both being the medical institutes of high credibility, the respondents are directed to conduct fresh medical examination of the petitioner preferably at Army Hospital Research and Referral Institute at New Delhi, by constituting a Medical Board of experts to re-examine the petitioner.

9. The respondents are at liberty to constitute a Medical Board of such experts as it may deem fit. It is, however, made clear that direction is given to conduct fresh medical examination of the petitioner without expressing any opinion on the merits of the medical fitness of the petitioner.

10. In case, the petitioner is found medically fit by the experts of the Medical Board to be constituted by the respondents, he shall be accorded benefit of his merit and appropriate order shall be passed accordingly, subject, of course, to any vacancy being available qua the post for which petitioner had applied.

11. Let the needful be done within a period of 2 months from the date of receipt of a certified copy of this order

12. Disposed of in above terms.

(ARUN MONGA)
JUDGE

November 22, 2019

dharamvir

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