

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No. 635 of 2018 (O&M)

Date of Decision: 03.12.2019

Union of India and anotherPetitioners

versus

Bhagat Singh and othersRespondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SHARMA, JUDGE

Present : Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Anil Chawla, Advocate, for the appellants.

Mr. Sandeep Bansal, Advocate, for respondent No.1.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

CM No. 1724-LPA-2018

Heard. For the reasons mentioned in the application, delay of
56 days in filing the appeal is condoned. Application stands disposed of.

CM No. 4381-LPA-2019

Affidavit enclosed with the application is taken on record.
Application stands disposed of.

LPA No. 635-2018

This appeal has been filed by the appellants being aggrieved by
the order dated 22.01.2018 passed by the learned Single Judge in Civil Writ
Petition No. 20660 of 2016 whereby the petition filed by the respondent-
petitioner has been disposed of in terms of the opinion given by the medical
experts of Post Graduate Institute of Medical Education and Research,
Chandigarh (PGIMER) to the effect that the petitioner did not suffer from
hyperhydrosis and on that basis has directed the appellants to consider his
case for appointment on the post of Sailor in the Indian Navy.

Learned Additional Solicitor General of India appearing for the appellants has submitted before this Court that on account of conflicting medical opinion(s), the matter may ultimately be referred to the Army Hospital (Research & Referral), New Delhi and in case the said Army Hospital gives an opinion that respondent is not suffering from *hyperhydrosis*, the appellants would be bound by the said opinion. He further submitted that this is necessary as the appointment of respondent No.1 relates to the Defence and Armed Force and in case he is suffering from the medical problem it would affect his functioning in that capacity and would have an adverse effect and impact on the safety of his colleagues as well as on his effective performance.

Learned counsel appearing for respondent No.1 had initially objected to the prayer on the ground that this would be an unending exercise taken by the appellants and therefore until and unless an undertaking is given by the appellants' authorities that they would be bound by the opinion given by the Army Hospital (Research & Referral), New Delhi, respondent No.1 is not willing to submit himself for this kind of re-examination.

Learned Additional Solicitor General of India appearing for the Union of India has now filed an affidavit executed by Shri Gopal Sharma, Commodore (Manpower Planning and Recruitment) in Directorate of Manpower Planning and Recruitment at IHQ MoD (Navy), Sena Bhawan, New Delhi, wherein it has been undertaken that the appellants would be bound by the opinion given by the Army Hospital (Research & Referral) with regard to the medical condition of respondent No.1. The said affidavit has been filed by the appellants vide CM No. 4381-LPA-2019. He further submits that in view of the aforesaid undertaking, in case the Army Hospital (Research & Referral) gives his opinion in favour of respondent No.1, his

case would be duly considered and in case the opinion is given against him, then both the parties would be bound by it.

Learned counsel for respondent No.1 does not dispute the aforesaid aspect and undertakes that he would also be bound by the opinion given by the Army Hospital (Research & Referral), New Delhi.

In view of the aforesaid conjoint submissions made by learned counsel for the parties and in view of the undertaking given by the Union of India in their affidavit, while modifying the order passed by the learned Single Judge, the present appeal is disposed of with the observations that respondent No.1 shall submit himself for re-examination before the Army Hospital (Research & Referral), New Delhi on any date which is intimated and informed to him by the Appellants' authorities. The parties shall thereafter be bound by the opinion given by the Army Hospital (Research & Referral), New Delhi. It is further observed that in case the medical report comes in favour of respondent No.1, the appellants would extend all service benefits to him at par with his juniors except arrears of salary as observed by the learned Single Judge.

With the aforesaid observations, the appeal stands disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

03.12.2019

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No