

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

**CWP NO. 36779 OF 2019
DATE OF DECISION : 18.12.2019**

Sumit

...Petitioner

versus

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

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

Mr. Vipul Aggarwal, Advocate,
for the respondent-UOI.

ARUN MONGA, J. (ORAL)

Grievance of the petitioner herein is against his declaration of medical unfitness by the Appeal Medical Board dated 31.08.2019 (Annexure P-4) constituted by the Indian Air Force for the purpose of selection as Airman.

2. Learned counsel for the petitioner contends that after qualifying the written examination, physical fitness examination and interview, the petitioner was subjected to medical examination wherein petitioner was found unfit on three grounds i.e i) Tympanosclerosis bilateral; ii) over weight and iii) refractive error. He was referred to Appeal Medical Board for medical examination. Learned counsel further submits that before re-medical examination by Appeal Medical Board, the petitioner got himself examined at Sri Ganga Ram Hospital, New Delhi on 24.07.2019 and Dr. Ram Manohar Lohia Hospital, New Delhi on 26.08.2019. The experts there opined

that the petitioner was not suffering from any aforesaid ailment and relies on medical certificates Annexures P-5 and P-6 respectively.

3. Notice of motion.

4. On advance service of copy of petition, Mr. Vipul Aggarwal, Advocate has put in appearance on behalf of the respondents.

5. *Per contra*, learned counsel for the respondents contends that petitioner has been declared unfit by Senior Medical Officer vide Medical Unfitness Certificate dated 22.07.2019 (P-3), as well as, by the Appeal Medical Board on 31.08.2019 (Annexure P-4) and the decision of Appeal Medical Board is final and binding.

6. On the other hand, learned counsel for the petitioner relies on a Division Bench of this Court, in LPA No.654 of 2015 which in similar circumstances 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 reconsider 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."

7. In the light of above views of this Court, I am inclined to agree to the contention of learned counsel for the petitioner.

Accordingly, the present petition is disposed of with a direction to the

respondent(s)/President Central Airmen Selection Centre, New Delhi, to refer the petitioner to the Army Research and Referral Hospital, New Delhi or any other hospital of their choice, for re-examination by a board of experts which shall include the relevant specialists to assess the medical fitness of the petitioner.

8. Needless to say that the Medical Board, so constituted, is at liberty to conduct any test as it deems appropriate. The selection process to be carried out shall abide by medical report furnished pursuant to the medical examination of the candidates by the Medical Board.

9. 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.

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

(ARUN MONGA)
JUDGE

DECEMBER 18, 2019
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No