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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 11113/2019**

SIDDHARTH BHARDWAJ ..... Petitioner

Through: Mr. Dharamraj Ohlam, Advocate.

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Sanjib K.Mohanty , Senior Panel Cousel with Mr. Amit Acharya, Advocate and Wing. Cdr. Dinesh Sirpal, for R-1 and R-2.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% 11.12.2019

1. The Petitioner has filed this petition aggrieved by his non-selection in the Admin/Logistics branch of Indian Air Force in batch No. V, which is to start from 6th January, 2020. During the medical examination, he was found unfit on account of 'Chorioretinal Scar' in his right eye and 'Substandard corrected vision' in both eyes. This was communicated to him by a rejection letter dated 12th July, 2019.

2. The Petitioner sought further medical examination. On 19th August, 2019 he was medically examined at the Base Hospital, Delhi. He was again declared unfit due to "Chorioretinal scar in Rt. Eye and substandard uncorrected vision both eyes."

3. The Petitioner's plea for a Review Medical Board was thereafter rejected by the Respondents by the impugned order dated 21st August, 2019.

4. The Petitioner appears to have got himself examined on 4th September, 2019 at Ram Manohar Lohia Hospital, New Delhi where his eyesight was assessed as "(R) 6/9 and (L) 6/6" with the following remarks:

> "Chorioretinal Scar, Old Healed, (R)- "Non-Progressive" Scar, not involving Macula. No other retinal pathology. Media clear."

5. The very next day, the Petitioner himself got examined in Guru Nanak Eye Centre, New Delhi, which is a public hospital. According to him, here again, his eyesight was certified as normal

6. Alleging that the rejection of his candidature is in violation of the parameters incorporated in Section III, Chapter 12, Clause 3.12.9 of IAP 4303, it is contended by the Petitioner that his non-selection for the above course is illegal.

7. At the hearing of the Petition on 22nd November, 2019, the following order was passed:

> "1. Both in the original medical examination held on 12th July, 2019 and the Appellate Board examination on 19th August, 2019, the Petitioner was found unfit on account of the presence of 'Chorioretinal scar' in the right eye. It is also stated that he had sub-standard vision in his both eyes, although there are some inconsistencies in the recording of his vision as 'corrected' on 12th July, 2019 and 'uncorrected' as on 19th August, 2019.
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> 2. Be that as it may, learned counsel for the Respondents states that the presence of the above Chorioretinal scar would itself be

a disqualification. He seeks to produce the relevant manual/rules, along with an affidavit in support of such contention within two weeks.

3. List on 11th December, 2019"

8. Learned counsel for the Respondents produced before the Court the opinion of the Group Captain H. S. Trehan, the Consultant at Army Hospital (Research and Referral) ['AHRR'] dated 3rd December, 2019 where it is stated as under:

"1. I have perused the documents of Sh. Siddharth Bharadwaj vs. UOI before Hon'ble High Court.

2. The central question is whether the presence of chorioretinal scar is by itself sufficient ground for rejection of the candidate in the instant case.

3. The candidate has a chorioretinal scar between the optic disc and the fovea. This area is the seat of vision and is responsible for sharpness and clarity of vision and also greatly influence the visual fields. These are the two most critical areas for vision and any abnormality in this area is entirely unacceptable in a candidate for the Armed Forces.

4. These chorioretinal scars arise from episodes of chorioditis (inflammation of the chorioid) and are known to be recurrent in nature. This fact is amplified in IAP 4303 section III Chapter 12, Para 3.12.2 (d) which deals specifically with this situation. A chorioretinal scar is evidence of a permanent lesion following chorioditis and more importantly is located in a vision critical area. Hence, this is a ground for rejection in keeping with the laid down policy."

9. It may be mentioned that Group Captain H. S. Trehan is a Senior Advisor of Ophthalmology in AHRR.

10. Learned counsel for the Petitioner contended that in view of the clauses 3.12.2(d) and 3.12.9, there was no justification in finding the Petitioner unfit. According to him, neither does the Petitioner have a "frequently recurrent uveitis" nor does he have "permanent lesions". According to him, he has 'scar' which is an old one that has already is healed. Referring to clause 3.12.9, he points out that unless the defect is "likely to progress" there was no justification for rejection of the candidature on that count.

11. Learned counsel for the Respondents, however, states on instruction of Wing Cdr. Dinesh Sirpal, who is a Medical Officer, R.K. Puram that what the Petitioner has are Chorioretinal scars arising from episodes of Choroiditis (inflammation of the choroid) and these are known to be "recurrent in nature". According to him, the Petitioner's condition stands covered by para 3.12.2(d). It is stated that the Chorioretinal scar is evidence of permanent lesion following choroiditis and that it is located in vision critical area.

12. Learned counsel for the Petitioner urged that the Petitioner is able to perfectly read and write without any difficulty and that the opinion of the ophthalmologist at RML Hospital and Guru Nanak Eye Centre should be taken into account and a Review Medical Examination should be ordered.

13. The Court is satisfied, having examined the medical record of the Petitioner, that at the two stages of medical examination i.e. the initial examination and the examination by the Appellate Board, including a

specialist in ophthalmology, he was found to have Chorioretinal scar in a vision critical area and this was opined to be a condition of medical unfitness rendering him disqualified.

14. The highest standards of medical fitness have to be adhered to when it comes to the armed forces. There can be no question of the Court diluting such standards. Whether the Petitioner actually suffers from a particular medical condition is for medical experts to determine. The Court is satisfied, in the instant case, that the medical experts have on two consecutive occasions come to the same conclusion after taking into account the relevant factors. The Court cannot discard the concurrent opinions of the above medical experts merely on the basis of subsequent reports of other experts in the discipline, obtained either from public health facilities or elsewhere. Consequently, the Court is not persuaded to entertain the plea of the Petitioner. The petition is dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

DECEMBER 11, 2019
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