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

+ **Date of Decision: 29.05.2019**

% **W.P.(C.) No. 126/2019**

ABDESH KUMAR Petitioner
Through: Mr. Yashpal Rangi, Advocate.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Anurag Ahluwalia, Mr. Jitendra
Kr. Tripathi and Mr. Kartikeya
Rastogi, Advocates for R-1 to R-4.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J. (ORAL)

1. The petitioner has preferred the present petition to assail the Memorandum dated 30.12.2018 whereby the petitioner has been declared medically unfit for enrolment in Indian Air Force. According to the petitioner, on 6.12.2017 the Indian Air Force had invited online applications for selection to the post of Airmen in Group 'X' and 'Y'. The petitioner submitted his application for the said posts and in the Phase-I test the petitioner performed well, and was declared shortlisted for Phase II in Group X. Thereafter, the petitioner was declared shortlisted for Phase-III i.e for the purpose of medical examination. On 31.7.2018, the petitioner was medically examined and was declared 'unfit' on two counts i.e over weight

and external haemorrhoids. The petitioner preferred an appeal but the Medial Board declared the petitioner medially unfit on account of external hemorrhoids. Thereafter, the petitioner preferred W.P. (C) No.11807/2018 and the respondents on 11.12.2018 submitted before the Court that the petitioner was examined and was found medically fit and he would be issued orders for joining the training. The petitioner was issued a call letter on 10.12.2018 for training, wherein the petitioner was shown as a stand-by candidate. However, as per the provisional select list declared on 31.10.2018, petitioner's merit position was shown as 2291 and candidates up to the merit position 2629 were shown as main candidates in the enrolment list. When the petitioner reported at Airmen Selection Centre for joining on 30.12.2018, the respondents declined to consider his case as main candidate. The petitioner was once again medically examined on 30.12.2018 and found medically unfit on account of '*keloid over dorsal aspect of (RT) Palm*'.

2. We have heard the submissions of learned counsels for the parties.
3. It appears that the petitioner underwent a procedure to remove a tattoo on his hand which, evidently, led to keloid. On 25.04.2019, the petitioner claimed that the effect of the surgery is no longer visible, and that he does not have any trace of *keloid* anymore. On this submission, the respondents were directed to get the petitioner examined once again at the Army R & R Referral Centre. Ld. counsel for the respondents has submitted that as per the directions the petitioner was got examined in the above said hospital. He further submitted that as per the Medical Board report dated 21.05.19, the petitioner has been opined to be fit for all military duties.

4. The conduct of the respondents in not showing the petitioner in the main list, and in showing him as a stand-by candidate appears to be discriminatory, since he had been ranked higher than others ranked upto merit position 2629, who had been shown as main candidates.

5. The latest medical report of the petitioner shows that the keloid was only a temporary condition, which appeared as a result of the surgery undertaken by the petitioner to get the tattoo on his hand removed. Even according to the respondents, the keloid does not survive any more. Therefore, in these circumstances, we direct the respondents to appoint the petitioner to the post of Airmen in Group 'X', subject to fulfillment of other conditions by him.

6. The petition stands disposed of in the above terms.

RAJNISH BHATNAGAR, J.

VIPIN SANGHI, J.

MAY 29, 2019

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