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

+ **W.P.(C) 6242/2019**

NEHA BORAH

..... Petitioner

Through: Mr. Anuj Aggarwal, ASC with Mr.
Atul Goyal, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Ms. Sunieta Ojha with Mr. Amit
Kumar, Advs. for R-1.
Mr. Naresh Kaushik with Mr. Omung
Gupta, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

29.05.2019

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C.M. No. 26756/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 6242/2019 & CM APPL. 26755/2019

Issue notice. Counsel for the respondents accepts notice.

The petitioner has preferred the present writ petition to seek a writ of certiorari quashing the order dated 11.05.2019 issued by the respondents – rejecting her candidature on the ground that she has been found to be over-

weight by 12 kgs. She seeks a direction to the respondents to provide her a fair opportunity and a reasonable period so that she can reduce her weight and bring it down within the desirable limits.

The petitioner appeared for and qualified in the examination for recruitment to the post of Assistant Commandant in Central Armed Police Forces. The advertisement therefor was issued on 25.04.2018.

Unfortunately, when the medical examination of the petitioner was conducted on 11.03.2019, she was found to be over-weight by 16 kgs. and was declared unfit. She was granted yet another opportunity and a Review Medical Board was held on 11.05.2019.

Once again, she was found to be over-weight by 12 kgs. Consequently, her candidature had been rejected.

Mr. Aggarwal submits that the petitioner be granted yet another opportunity. We are not inclined to agree with this submission of the petitioner.

The examinations conducted by the respondents are public examinations, which are held on All-India basis and it is not for the Courts to make exception in individual cases and, thereby, tinker with the recruitment process.

Mr. Aggarwal submits that the petitioner being over-weight by 12 kgs. would not impede the discharge of her duties in a normal way since she fulfilled the requirements of the Physical Efficiency Test.

We do not find merit in this submission.

It is for the respondents to lay down the norms and standards required with regard to the physical fitness and it is not for the petitioner, or even for this Court, to determine the aspect whether, or not, the person who is over-

weight by 12 kgs. would be able to discharge his or her duties.

The petitioner has placed on record the medical certificate stated to have been obtained from AIIMS. The same appears to have been issued by Dr. Prayas Sethi, Assistant Professor, Department of Medicine on 20.05.2019. The said certificate records that the petitioner has been losing weight intentionally since November, 2018; which is appropriate. It records she, otherwise, seems physically fit. It also records that it is advisable that the petitioner loses weight gradually only as that may be the most physiological way. It also records that she is likely to reach required criteria in due course and advises review in two months.

We are perplexed to read the said medical certificate as, in our view, it is not the mandate of the AIIMS to issue such like medical certificates. We, therefore, direct that a copy of the said medical certificate be forwarded to the Director – AIIMS along with a copy of this order, so that the same is looked into. The Director – AIIMS should advise the medical doctors serving at the AIIMS to be cautious while issuing medical certificates, so that they deal with ailments diagnosed and/ or treated by them.

The petition is accordingly dismissed.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

MAY 29, 2019

N.Khanna