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

+ **W.P.(C) 7888/2019**

MR. SOURAV SINGH TOMAR Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA AND ORS Respondent

Through: None.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

% **18.11.2019**

CM APPL. 49362/2019 (clarification order dt. 23.07.2019)

1. For the reasons stated therein, the application is allowed.

2. The order dated 23rd July, 2019 shall now read as under:-

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

+ **W.P.(C) 7888/2019 and CM APPL. 32729/2019**

MR. SOURAV SINGH TOMARPetitioner

Through: Mr. Rajeev Ranjan & Mr.
Pulkit Prakash, Advocates.

versus

UNION OF INDIA AND ORSRespondents

Through: Mr. Anil Soni, CGSC and
Mr.Abhinav Tyagi, Advocate for
the respondents No.1, 3 & 4.
Mr. Naresh Kaushik, Mr. Tapasvi
Raj & Mr. Vibhuti Tyagi,
Advocates for the respondent
No.2/ UPSC.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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23.07.2019

The petitioner has preferred the present writ petition assailing the findings of the Medical Board held on 06.03.2019 and the Review Medical Board held on 13.05.2019 which found him medically unfit.

The petitioner responded to the advertisement dated 25.04.2018 for recruitment to the post of Assistant Commandant in Central Armed Police Forces (CAPFs) for which the examination was held in 2018. The petitioner qualified in the written examination, where after he was asked to appear for Physical Efficiency Test/ Physical Standard Test and Medical Standard Test. He appeared for his medical examination before a Medical Board in February, 2019 and March, 2019. The Medical Board found him to be unfit on 07.03.2019. The medical unfitness was on account of "*Colour (Blindness) vision defect CP IV (Four)*".

The petitioner, it appears, got himself examined at Gajraja Medical College (GRMC) and Hospital, Gwalior on 13.03.2019 which certified that there was an error of judgment in finding that the petitioner was suffering from "*Colour (Blindness) vision defect CP IV (Four)*". The petitioner also got himself examined at Dr. Ram Manohar Lohia Hospital in Delhi on 16.03.2019. The medical report issued by Dr. Ram Manohar Lohia Hospital has been placed on record, which is not very clear. He also relies on medical report prepared way back on 16.05.2005 by the school in which he was studying, i.e. Sainik School, Rewa, Madhya Pradesh.

Eventually, the petitioner was examined by the Review Medical Board of the respondents and, unfortunately, for him, he was once again found medically unfit for the same reason. The submission of the petitioner is that the reports prepared by the first Medical Board and the Review Medical Board on 07.03.2019 and 13.05.2019 are erroneous in the light of the

material produced by him. In the matter of conduct of medical examination for recruitment to the posts in the Armed Forces, it is the medical boards of such organizations which are competent to certify the medical fitness or unfitness of the candidates. This is for the reason that they are aware of the standards including medical standards expected of the candidates. It is not the petitioner's case that the Medical Board or the Review Medical Board did not consist of specialists competent to assess his medical examination. It is also not his case that either the Medical Board or the Review Medical Board acted with any malice or motivation against him. It is not for this Court, in these circumstances, to disregard the findings of the Medical Board or the Review Medical Board and to direct the petitioner's re-examination. Such a step would unduly undermine the sanctity of the proceedings undertaken by the respondents to assess his medical fitness.

Reliance placed on *Sudesh Kumar Vs. Union of India & Am., 2011 see Online Del 1449*, is completely misplaced since that case related to persons who had been recruited and had been serving, since they were not detected to be suffering from any colour blindness at the time of their recruitment. Much later, they were sought to be declared unfit on the ground of colour blindness. In those circumstances, the court interfered with the subsequent declaration of unfitness of the serving personnel.

For the aforesaid reasons, we find no merit in this petition.

Dismissed.”

S.MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 18, 2019/pa