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

+ **W.P.(C) 8692/2019**

DHARMRAJ JAT

..... Petitioner

Through: Mr. Jaideep Singh, Ms. Eysha
Marysha and Mr. Kartik Dabas, Advs.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Ms. Bharti Raju, CGSC with
Mr.Pankaj Kumar, G.P. for R-1 and
R-2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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09.08.2019

CM APPL. 35975/2019

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

W.P.(C) 8692/2019

The petitioner has preferred the present writ petition to seek a direction to the respondents to conduct an unbiased and unprejudiced re-medical examination of the petitioner for recruitment to the post of SI (Works) and JE/ SI (Electrical) in BSF Engineering Setup – 2018-19. The petitioner also seeks quashing of the review medical examination conducted for the said post in relation to the petitioner whereby he has been declared unfit.

After the petitioner had cleared the written examination, he was subjected to the medical examination on 23.05.2019 at Composite Hospital BSF, Jodhpur. Unfortunately for the petitioner, he was declared medically unfit on account of suffering from Tachycardia (pulse rate 124/minute). The petitioner then appeared before the Review Medical Board of the respondents on 23.07.2019. He was again medically examined and found unfit for the same reason.

The submission of learned counsel for the petitioner is that the petitioner got himself examined at two hospitals, including AIIMS, New Delhi on 02.08.2019 and the Doctor has specifically stated that his ECG findings are normal and he is not suffering from Tachycardia. On that basis, the petitioner has preferred this petition.

This Court has repeatedly held that it is not open to the candidates who have been found to be medically unfit by Medical Board, or the Review Medical Board to obtain favourable medical reports on their own, and on that basis, to seek a fresh examination. It is not the petitioner's case that the Medical Board, or the Review Medical Board, or any of the doctors who examined him had an axe to grind against him. Such like Medical Boards and the Review Medical Boards examine hundreds and thousands of candidates in routine, and they are manned by competent professionals. There is no reason to assume that they have not performed their duties in a competent manner and with honesty.

Learned counsel for the respondent, who appears on advance notice, has produced the original medical record of the petitioner in relation to the medical examination of the petitioner. It shows that the heart rate of the petitioner while standing was found to be 126/minute; and after hopping 25

times, it was 140/minute and; after two minutes of hopping it was 124/minute. Evidently, the high heart rate of 124/minute even after two minutes of the hopping led to the conclusion drawn by the Medical Board that he is suffering from Tachycardia.

We may observe that the report produced by the petitioner from AIIMS does not disclose that the petitioner was subjected to such like tests before issuance of the certificate stating that he is not suffering from Tachycardia. This Court has held that it is the recruiting agency/ employer who is aware of the medical standards that they are looking for – considering the nature of the job involved. Obviously, the Doctor, who issued the medical certificate from AIIMS was not aware of the same and this is clearly reflected from his certificate itself.

We, therefore, do not find any merit in this petition.

Dismissed.

VIPIN SANGHI, J

ANUP JAIRAM BHAMBHANI, J

AUGUST 09, 2019

B.S. Rohella