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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8878/2019

CHANDAN KUMAR SINGH

..... Petitioner

Through: Ms.Archana Ramesh, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Mr. Dev P. Bhardwaj, CGSC with
Mr. Anshuman, Adv with Maj. Arjun
Singh for R-1 to R-5.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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18.09.2019

1. On the previous date, i.e. 19th August, 2019 the following order was passed:-

“The case of the petitioner is that the petitioner was initially declared medically unfit on the ground that he had a squint in one of his eyes; that he approached this Court and this Court directed his medical re-examination at the Army Hospital (R&R) Delhi Cantt before the Appellate Medical Board; he was medically re-examined by the Appellate Medical Board; that he was issued an admit card to appear in the examination in question; that he appeared in the examination at Ranchi on 29.07.2018; that he was asked to identify himself as the person who had been issued the admit card post his medical re-examination in pursuance to the orders passed by this Court; that he identified himself; he attempted the questions and left a few blank since there was negative marking of 0.25 marks per wrong answer, the invigilator asked him to mark the

unanswered questions and suggested the answers to him in relation to question Nos. 3, 4, 5, 27, 28, 29, 30, 46, 48, 49 & 50, which he answered; that all the answers to these questions were wrong and, consequently, he was awarded 04.75 negative marks; that consequently he could not succeed in the examination which he would have, had he not attempted to answer the aforesaid questions on the coercion of the invigilator.

In these circumstances, the petitioner has sought the direction to call for the record of the CCTV footage of the examination centre and to grant to the petitioner, the permission to appear in the written examination *de novo* and declassify the same to meet the ends of justice.

We do not find merit in the aforesaid submission of the petitioner. After he appeared in the examination at Ranchi on 29.07.2018, he did not narrate the aforesaid story before any forum or to the respondents or any other authority. This story is narrated, for the first time, in the present writ petition. We fail to understand as to why an organisation such as the respondent, which is conducting public examination, would go after the petitioner merely because he had approached this Court against his medical disqualification and he had been directed to be re-examined by the Appellate Medical Board at the Army Hospital (R&R), Delhi Cantt.

There are innumerable number of such instances and this is the first time we have heard of such alleged victimisation. When the petitioner appeared in the examination, he was a Major and he must take consequences of his own conduct. Even if, he was prompted to answer certain questions, as claimed by him, it was for him to decide, whether or not to answer, and if so, in what manner.

We are, therefore, not inclined to grant the prayer for calling of the CCTV record.

However, we find that the petitioner has obtained, in response

to his query under the Right to Information Act, a statement prepared by the respondents which shows that the total correct questions answered by him were 30 of 4 marks each. Consequently, he got 120 marks. He had 19 wrong answers, and therefore, 04.75 marks were sought to be deducted and consequently he secured 115.25 marks. The response of the respondents states that in the category to which the petitioner belongs, i.e. SOL CLK/SKT- the cut off marks for selection were 108 marks. Thus, the petitioner secured higher than the cut off marks.

We, therefore, issue notice to the respondents limited to the aforesaid aspect. The respondents should explain as to why the petitioner has not been selected despite his securing higher marks than the cut off marks.

Counter affidavit be filed within two weeks. The record should be kept available on the next date of hearing for perusal of the Court.

List on 18.09.2019.”

2. A short affidavit has been filed by the Respondents explaining that for each correct answer the number of marks was 4. The Petitioner had answered 30 questions correctly and, therefore, had got 120 marks.
3. As per the rules governing the exam for a wrong answer, one-fourth of the marks awarded for the correct answer will be deducted. 4 marks being awarded for the correct answer, 1 mark would be deducted if the answer was wrong. The Petitioner answered 19 questions wrong, and therefore, got 120-19, i.e. 101 marks, whereas the cut-off was 108.
4. Consequently, the Court finds no reason to interfere.

5. The petition is dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

SEPTEMBER 18, 2019
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