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

+ **W.P.(C) 3461/2017 & CM No. 15170/2017**

KULDEEP

..... Petitioner

Through: Mr. L.C. Rajput, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Kamaldeep, Advocate.
Mr. Anil Thakur, Law Officer/CRPF.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **05.02.2019**

1. The Petitioner applied for the post of ASI (Technical/Signal Cadre) in the Central Reserve Police Force (CRPF) pursuant to an advertisement issued on 2nd March 2016. After having successfully cleared the initial stages of the recruitment process as well as the written exam, the Petitioner was declared unfit at the medical examination conducted on 19th August 2016.

2. The advertisement issued by the Respondents set out in Clause 7 of Part A the “Medical Guidelines for Recruitment.” It *inter alia* talks of “duration of fitness for post-operative cases”. It states that for any operation in relation to ‘Tympanoplasty’, there must be a lapse, after such operation, of at least four

months before the first medical examination is conducted. Clause 7 (e) states “above time will be considered at the time of medical only and not after the due date of medical”.

3. The undisputed facts are that the Petitioner’s first medical examination was conducted on 19th August 2016 and he was found unfit on the following ground:

“Chronic Otitis media (left) operated recently with residual perforation with Modula Hearing loss. (Prescribed duration not completed.”

4. The Petitioner himself has not disputed that he underwent a surgery on his left ear at Anand Hospital, Meerut, U.P. on 25th July 2016 which was within 120 days of his first medical examination on 19th August 2016.

5. The Petitioner submitted an application/appeal seeking a Review Medical Examination (‘RME’) and pursuant to a medical examination undertaken on 9th September 2016 at a Government hospital as per the directions of the Respondents, he underwent the RME on 26th October 2016 where he was again declared unfit on the following ground:

“Not completed mandatory post-operative period. Post Auricals Scar present. B/L TyponicMemb. Ents conglutination done with found-normal. Audiogram (n) H/O Tympanoplasty left under General Anaesthesia on 25/07/2016. Not completed mandatory post-operative period (120) days). Hence declared unfit. Order No. V-18011/24/ADG (Med)/WP-RKV/2014 dated 05/12/2014.”

6. According to the Petitioner, if he had been sent for the RME on 25th November 2016, which was a common date for all candidates for whom the

review examination was being carried out instead of on 26th October 2016 when the Petitioner's was conducted, then he would not have stood disqualified on the abovementioned ground.

7. At the hearing on 23rd August 2018, this Court enquired from the learned counsel for the Respondent why the Petitioner could not have been accommodated for undergoing the RME on 25th November 2016.

8. The counter affidavit filed by the Respondents makes it clear that the Petitioner having undergone surgery after applying for the post and within 120 days of the First Medical Examination, he attracted the disqualification in terms of the conditions stipulated in the advertisement itself.

9. The fact that at the medical examination which he underwent at a Government hospital, he was found to be 'normal' will not help the case of the Petitioner since both the First Medical Examination as well the Review Medical Examination took place within four months from the date of the surgery undertaken by him.

10. As rightly pointed out by the learned counsel for the Respondents, since the Petitioner underwent the operation within 120 days of his first medical examination itself, his disqualification, on that ground, cannot be questioned.

11. The Court sees no ground to interfere with the impugned decision of the Respondents.

12. The petition along with the pending application is dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 05, 2019

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