

21.12.2020

Ct. No. 24

Item No. 29

pk.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA No. 9712 of 2020

Rahidul Sk.

-vs-

The Director General, CRPF & Ors.

Mr. Sankha Subhra Ray

for the petitioner

The petitioner is aggrieved by the unfit certificate issued in his favour by the Medical Officer, who carried out his physical examination for the purpose of employment in the Central Armed Police Force. The rejection was on the ground of Infected Extensive Eczema in the chest, trunk and extremities.

The petitioner got himself rechecked by the Government Hospital in the Lalbag Sadar Hospital, Murshidabad where the Doctor was of the opinion that there was an error of judgment as the lesion was there since birth and not contagious and will not hamper his physical ability to render service. The said Doctor declared him medically fit for the post.

The petitioner thereafter applied for a review medical examination. The Review Medical Board reiterated the decision of the Medical Officer and declared him unfit on the ground of Extensive Tinea Versicolor noted in the trunk, back and upper extremities.

The petitioner got himself reexamined once again in the Murshidabad Medical College & Hospital where the Doctor was of the opinion that there was no skin disease at present and he was fit from skin aspect. The Doctor was however of the opinion that there was post inflammatory hyperpigmentation and the versicolor has improved.

The petitioner thereafter made a representation before the respondent authority praying for recalling the order of rejection of his candidature on the ground of medical unfitness.

The petitioner prays for a direction upon the respondent authority to permit him to be examined by the Military Hospital.

The petitioner relies upon orders passed by court in similar matters. He particularly relies upon the unreported order dated 10th February 2014 passed by a learned Single Judge of this court in WP No. 2708 (W) of 2014 wherein the court was of the opinion that where there was two conflicting opinions pertaining to the physical conditions of the petitioner, it was incumbent on the part of the appellate authority to indicate the reason why it accepted the opinion of one and rejected the other. The court was pleased to direct the Review Medical Board to reexamine the petitioner and pass such order as would indicate why either of the conflicting opinions before it ought to be disregarded.

The petitioner also relies upon an unreported order dated 23rd January 2018 passed by an Hon'ble Division Bench of the Delhi High Court in WP(C) 6641/2017 and CM APPL. 27599/2017 wherein the court passed an order for re-examination of the petitioner by the Army Hospital.

None appears on behalf of the respondents to oppose the prayer of the petitioner, despite service.

From the series of reports of the Medical Officers it appears that there is a problem with the skin of the petitioner. Whether the said problem is of such a nature that will make the petitioner unfit for service or not is a matter to be decided by the Medical Expert. The Expert Doctors of the respondents opines that the petitioner is not fit for duty whereas the Medical Officers of the State Government Hospital opine in favour of the petitioner.

As there appears to be a conflict of decision of two sets of Medical Officers, one of the Army and the other of the State Government, this court feels it fit to refer the matter to the Command Hospital, Kolkata for reviewing the medical fitness of the petitioner.

The respondent authorities are directed to permit the petitioner to appear before the Superintendent of the Command Hospital, Kolkata for examination as to whether the petitioner is fit for duty in CAPF. Such steps shall be taken within a period of eight weeks from the date of communication of a copy of this order.

The report of the Command Hospital, Kolkata shall be forwarded to the petitioner immediately thereafter.

WPA 9712 of 2020 is thus disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)