

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Writ Petition No. 3695 of 2020

Date of Decision: February 12 , 2020.

Tarsem Rana

..... PETITIONER (s)

Versus

Union of India and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ravi Rana, Advocate
for the petitioner.

Ms. Anita Balyan, Advocate
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

The petitioner, it is submitted, joined the Boarder Security Force as a Constable and is due to retire on 31.12.2021 after serving the force for 20 years. Notice dated 15.01.2020 (Annexure P1) was served upon the petitioner informing him that the Commandant 5th Battalion BSF, was satisfied with the opinion of the Medical Board which examined the petitioner on 26.11.2019, found him to be medically unfit. Therefore, the petitioner is liable to be retired as per Rule 25 of the BSF Rules 1969. It is further clarified therein, that the

petitioner had a right to submit his objections before the higher authorities alongwith a medical certificate which would prima facie show the petitioner to be not suffering from any medical problem, within fifteen days from the date of receipt of notice. The petitioner, it is submitted, tendered his objection/representation (Annexure P2) alongwith the medical certificate dated 20.01.2020 issued by the board of doctors constituted at the Government Medical College, Amritsar according to which the petitioner is stated to be stable on medication.

Grievance set-forth by the petitioner is that the authorities without deciding his objection/representation are proceeding to 'medically board out' the petitioner in an unjustified manner.

Rule 25 of the BSF Rules, 1969 reads as under:-

“25. Retirement of subordinate officers and enrolled persons on grounds of physical unfitness.— (1) Where a Commandant is satisfied that a Subedar-Major, an Inspector, a Sub-Inspector, an Assistant Sub-Inspector or an enrolled person is unable to perform his duties by reason of any physical disability, he may direct that the said Subedar-Major, Inspector, Sub-Inspector, Assistant Sub-Inspector or the enrolled person, as the case may be, to be brought before a Medical Board.

(2) The Medical Board shall be constituted in such manner as may be determined by the Director-General.

(3) Where the said Subedar-Major, Inspector, Sub-Inspector, Assistant Sub-Inspector or enrolled person is found by the Medical Board to be unfit for further service in the Force, the Inspector-General, the Deputy Inspector General or, as the case may be, the Commandant may, if he agrees with the finding of the Medical Board order the retirement of the Subedar-Major, the Inspector, the Sub-Inspector, the Assistant Sub-Inspector, or as the case may be, the enrolled person:

Provided that before the said Subedar-Major, Inspector, Sub-Inspector, Assistant Sub-Inspector or as the case may be, the enrolled person is so retired the finding of the Medical Board and the decision to retire him shall be communicated to him.

(4) The Subedar-Major, Inspector, Sub-Inspector, Assistant Sub-Inspector or, as the case may be, the enrolled person, within a period of fifteen days from the date of receipt of such communication, make a representation to the officer next superior in command to the one who ordered the retirement.

(5) The said superior officer shall have the case referred to a Review Medical Board which shall be constituted in such manner as may be determined by the Director-General.

(6) The superior officer may, having regard to the finding of the Review Medical Board, pass such order as he may deem fit.

(7) Where a representation has been made to a superior officer under sub-rule (4), and order passed under sub-rule (3), shall not take effect till it is confirmed by such superior officer.”

Bare perusal of the abovesaid rule reveals that it is incumbent upon the authorities to constitute a Review Medical Board before taking a final decision in the matter.

Learned counsel for the respondents is unable to deny the same.

Keeping in view the facts and circumstances of the case, this writ petition is disposed of with a direction to the respondents that final decision in the matter be taken by the respondent-authorities after observing the due procedure as prescribed under Rule 25 of the BSF Rules, 1969.

February 12, 2020.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No