

CWP No.8602 of 2016
Date of Decision: 19.02.2020

Manmohan Kaushik

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Ajay Vijarania, Advocate
for the petitioner.Mr. Brijehwar Singh Kanwar, Advocate
for the respondent-UI.**NIRMALJIT KAUR, J. (ORAL)**

The present writ petition is filed for setting aside the order dated 10.02.2016 (Annexure P-4), passed by respondent No.2, vide which, the petitioner was declared to be medically unfit on the basis of Annular Plague and Genital Lession A suggestive of Secondary Syphills disease.

While praying for setting aside the said order, learned counsel for the petitioner stated that he should be examined afresh as he has been declared medically fit by the civil doctors. The petitioner approached one Dr. Shubra Dixit, a famous Skin Specialist in Bhiwani District and also got the reports from Dr. Lal Pathlabs, Charkhi Dadri, Distt. Bhiwani and both have declared the petitioner fit and as per their lab report, the diseases of the petitioner is not reactive and the result are negative.

Reply on behalf of the respondents filed in Court is taken on record. Copy given to learned counsel for the petitioner. As per the said reply, the recruitment medical examination of the applicant was carried out as per the guidelines contained in Navy Order (Spl) 1/08. In this context

meant to preclude from acceptance those individuals, who are either unfit or likely to breakdown under stress and strain of service. Every efforts is to be made to detect any disability, which at a later date is likely to affect the physical and mental efficiency of the individual adversely, so that in fructuous expenditure to state is avoided due to later drop-outs. All doubtful cases are to be referred to the appropriate service specialist for opinion". Hence, the detailed medical examination of the applicant was carried out as per the guidelines contained in NO (Spl) 01/08 at Indian Naval Ship Chilka. The Medical Officer conducting the medical examination at Indian Naval Hospital Ship INHS Nivarini found the petitioner 'unfit' for **Scabies in genitals**. Thus, as per the rules, the applicant was not enrolled for training. Further, the petitioner reported to his establishment INS Chilka on 10.02.2016 and underwent final medical examination alongwith other candidates at INHS Nivarini. During the final enrollment medical examination, the petitioner was found unfit for **Scabies in genitals**. Subsequently, he was referred to a Classified Specialist (Derm & Ven) for further review at INHS Nivarini. The Graded specialist (Derm & Ven) at INHS Nivarini examined/reviewed the case of the petitioner and declared the petitioner unfit for Scabies in genitals. The complete recruitment process was undertaken as per the current rules and regulations by well qualified professionals in their respective field. The petitioner was medically unfit and therefore, he was not enrolled in AA-139 batch in accordance with existing medical rules and regulations.

Moreover, the very argument of learned counsel for the petitioner is that the petitioner was found fit by the civil doctors namely Dr.

Shubra Dixit, and report of Dr. Lal Pathlabs shows negative result, cannot be sustained inasmuch as the reports of the said doctors are not even on record. In fact, the only thing that on record is the lab report of Dr. Shubra Dixit and the report from Dr. Lal Pathlabs. Even, as per these reports, negative results of antibodies to HIV-1 & HIV-2 does not indicate that an individual is absolutely free of HIV-1 and HIV-2 infection with a further advise to confirm by HIV PCR/Western Blot. The petitioner has not placed on record any confirmation by HIV PCR/Western Blot as advised and even the lab report of Dr. Lal Pathlabs shows that the same is admittedly not a conclusive clearance.

This Court may also note that the selection is of the year 2016 and now it is 2020 and in any case, there is nothing to doubt the report of the Medical Examination conducted by the respondents/authorities placed on record as Annexures P-3 and P-4.

Dismissed accordingly.

19.02.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No