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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 10742/2020 & CM APPL. 33665/2020 (for stay).
PARIDHI CHAUHAN Petitioner
Through: Mr. V. Sridharan, Sr. Adv. with Mr.
Amar Gahlot, Adv.

versus

UNION OF INDIA AND ORS Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MS. JUSTICE ASHA MENON

ORDER
% **21.12.2020**

[VIA VIDEO CONFERENCE]

CM APPL. 33666/2020 (for exemption).

1. Allowed, subject to just exceptions and as per extant rules.
2. The application is disposed of.

W.P.(C) 10742/2020 & CM APPL. 33665/2020 (for stay).

3. The petitioner, a candidate for recruitment in Short Service Commission (SSC) in the respondents Indian Army for SSCW (Tech)-26 Course, has filed this petition, aggrieved from the cancellation of his candidature, on being declared medically unfit by the Medical Board, Appeal Medical Board and Review Medical Board and seeks constitution of an independent Medical Board to re-examine the petitioner.
4. We have dealt with the aspect of interference with such opinion of the doctors of the Armed Forces, in *Vani Viswanathan Vs. Union of India*

MANU/DE/1678/2020, *Priti Yadav Vs. Union of India* 2020 SCC OnLine Del 951, *Akash Sharma Vs. Union of India* MANU/DE/2069/2020, *Nishant Kumar Vs Union of India* MANU/DE/1486/2020, *Sharvan Kumar Rai Vs. Union of India* 2020 SCC OnLine Del 924 and *Jonu Tiwari Vs Union of India* MANU/DE/1524/2020 [Special Leave Petition (Civil) No. 13492/2020 preferred whereagainst was dismissed on 17th December, 2020] and may succinctly state that the view taken by us is that merely on a challenge being made to the medical opinion of the experts of the respondents, the petitioner cannot be referred for yet another opinion, particularly on the basis of the opinion of another doctor, whether private or from a government hospital, unless from a perusal of the medical opinion of the Medical Board and the Appeal/Review Medical Board of the respondents, a case for doubting the said opinion is made out or if the opinion rendered is found to be vague. Here, the petitioner, by the Medical Board, Appeal Medical Board as well as by the Review Medical Board, has been declared unfit for the reason of suffering from ‘Heterochromia Iridis with pigment dispersion in both eyes and Central Corneal Opacity in the left eye’. Though the senior counsel for the petitioner states that the petitioner has not been furnished the findings in writing of the Appeal Board and the Review Medical Board but we are proceeding on the basis of pleadings of the petitioner.

5. The petitioner challenges the said opinion on the basis of, (i) opinion of Dr. Sandeep Mithal, Ex-Professor and Head of Department of Ophthalmology, Lala Lajpat Rai Medical College, Meerut, a Government run District Medical College and Hospital at Meerut, who has opined, again as per the pleading of the petitioner herself, “that the opacity of the eye of

the petitioner is negligible and of no visual significance and further that heterochromia iridis is just a variation of the normal and does not cause any visual deterioration, whether present or in future”; (ii) opinion of the Dr. A.K. Grover, Senior Consultant in the Ophthalmology Department at Sir Ganga Ram Hospital, New Delhi, who has opined “that the pigmented dots on the surface of lens are congenital in origin, physiological in nature and are not significant of any pathology which may cause deterioration of vision in future”; (the petitioner has also pleaded that though the said doctor informed her “that there is very small nebular opacity, the same being less than 1 mm in size, was not visually significant and that the petitioner has no vision related problems”); (iii) opinion of the ophthalmological out patient department (OPD) at the Lala Lajpat Rai Medical College, Meerut which has opined “that no visually significant corneal opacity is present in either of the eyes of the petitioner” and “that heterochromia iridis with pigment dispersion has no visual significance and there is no evidence of glaucoma/uveitis/ocular pathology”; (iv) opinion of Ophthalmological OPD of Safdarjung Hospital, New Delhi which has also opined “that the petitioner has perfect vision, ocular pressure and color vision and there are no other signs or symptoms of any sort”; (v) opinion of the doctors of All India Institute of Medical Sciences (AIIMS), New Delhi who have opined “that colour difference in the eyes is caused by hyper pigmentation, which is a normal condition, and not to be confused with any abnormality such as pigment dispersion syndrome” and “that corneal opacity is nebular corneal opacity and is not visually significant” and that “the eyes of the petitioners are simply a variation of the normal and the said condition has no related abnormality”; (vi) that the petitioner, in the year 2018 had cleared the Air

Force Common Admission Test and though was not selected but had undergone a medical examination which had found the petitioner fit; and, (vii) the petitioner, earlier had also participated in the Central Defence Services Examination and though was found medically unfit but on appeal thereagainst was orally informed by the Appeal Medical Board that the petitioner was fit, though was not selected due to lower rank in the merit list.

6. What is significant is that the opinion of the other doctors consulted by the petitioner is consistent with the opinion of the Medical Board, Appeal Medical Board and Review Medical Board of the respondents Indian Army, to the extent that the petitioner does indeed has heterochromia iridis and opacity in the left eye. The difference between the opinion of the doctors of the respondents Indian Army and the other doctors consulted by the petitioner is, that while the doctors of the respondents Indian Army have found the aforesaid to be disqualification for recruitment in the Defence Forces, the other doctors have opined that the same has no effect on the vision of the petitioner.

7. The aforesaid difference in opinion is understandable. It is only the doctors of the respondents, who are aware of the rigors and fitness required for serving in the Defence Forces in alien conditions, which civilians are not even aware of, who can determine the fitness required therefor. It is for this reason only that in the recruitment process, the medical examination is provided to be conducted by the doctors and medical experts of the forces themselves and not by the doctors of the civilian population. It is only the foot which wears the shoe which can tell whether it pinches or not.

8. We cannot be unmindful of the fact that a medically unfit person, when recruited, becomes a liability not only for the State but also for other

personnel of the Force who are required to serve for longer durations at difficult posts merely because others, though recruited and on the roll of the Force, are medically unfit therefor.

9. Thus, in view of the petitioner having been examined by doctors/medical experts at three levels by the respondents i.e. by the Medical Board, Appeal Medical Board and the Review Medical Board and in the absence of any doubt as to their opinion, we do not find any case to entertain the petition.

10. As far as the reliance by the senior counsel for the petitioner on the pleas, of the petitioner having been found fit in other recruitment processes undertaken by her, also of the Defence Forces, is concerned, suffice it is to state that save for a bare plea there is nothing to demonstrate the same today. It is the case of the petitioner that the petitioner is not possessed of documents declaring her medically fit. The fact of the matters remains that the petitioner was not recruited. If the merit of the petitioner was low in those examinations, as admitted by her also, it is well nigh possible that the medical boards undertaking the examination also did not pay much heed to the petitioner, knowing fully well that there was no chance of her being recruited.

11. The senior counsel for the petitioner has also drawn attention to the medical standards and procedure of medical examination but we are afraid the petitioner cannot derive any benefit thereof also. The same undoubtedly make impairment of vision including colour perception and field of vision, a ground for declaring a candidate unfit. We may also mention that the doctors who examined the petitioner were of the Base Referral Hospital at Delhi and of the Army Research and Referral Hospital at Delhi, who are often resorted

to by us, and also sought by others, seeking another round of medical review of the doctors of other medical units of the respondents.

12. No case for interference is made out.

Dismissed.

RAJIV SAHAI ENDLAW, J

ASHA MENON, J

DECEMBER 21, 2020

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