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

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RAHUL SINGH

W.P.(C) 395/2020

..... Petitioner

Through: Mr. T. Prashad, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Vikram Jetly, CGSC for UOI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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27.01.2020

1. The Petitioner has approached this Court for a direction to the Respondents to allow him to join Indian Military Academy ('IMA') – 148th Course, for which he was selected in terms of the merit list published by the Union Public Service Commission ('UPSC'), Delhi on 25th November, 2019.

2. As it transpires, during the medical examination, the Petitioner was declared unfit on four counts, one of which was that he was overweight. When he was examined before the Appeal Medical Board, he was found fit on one count, but continued to be found unfit on the remaining three counts. He then applied for and underwent an examination by the Review Medical Board ('RMB') between 26th November and 4th December, 2019. This time, he was found medically fit on two more counts, but was still found unfit on the ground of being overweight.

3. Thereafter, the Petitioner applied to the DGMS (Army) seeking a further medical examination, so that he may get time to reduce his weight. Having lost 5 kg thereafter, the Petitioner was waiting for a response to his query. It is at that stage that he filed the present writ petition.

4. On 13th January, 2020, this Court has passed the following order:

“1. Notice. Notice is accepted by learned counsel for the Respondents.

2. Before the next date of hearing, on a mutually convenient date and time, a complete further medical examination of the Petitioner will be undertaken by the Army Hospital (Research & Referral) and the report of such medical examination be placed before the Court on the next date. The exact date and time as to when the Petitioner should report should be intimated to him through counsel at least three days in advance.

3. It is made clear that this will not create any equities in favour of the Petitioner.

4. The Respondents will also inform the Court of the position vis-a-vis other rejected candidates who figured in the merit list, in whose case also the rejection was exclusively on the ground that they were found to be overweight.

5. List on 27th January, 2020.

6. A copy of the order be given dasti under the signatures of the Court Master.”

5. Pursuant to the above order, the Petitioner was examined at the Army Hospital (R&R), Delhi Cantonment. He has been declared medically fit, as his weight was within the required parameters.

6. Pursuant to the above order of this Court, the details have been placed before this Court by learned counsel for the Respondents. There was one candidate of the NDA Course, who was found unfit, on the ground of being overweight. However, that candidate is not before this Court.

7. In the special circumstances, where the Petitioner has made an effort and reduced weight by over 5 kg, and he has now been found fit on all medical grounds, the Court, as a special case, directs the Respondents to permit the Petitioner to join training at the IMA – 148th Course, for which he has been selected. The Petitioner will report at the IMA within three days from today. It is made clear that since this order has been passed in peculiar facts and will not constitute a precedent.

8. The petition is disposed of in above terms. No costs.

9. Order *dasti* under the signatures of the Court Master.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 27, 2020

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