

22.03.2021.
Item no. 28.
Court No.13
pk

**W.P.A. No. 8873 of 2020
(Through Video Conference)**

**Suman Mallick
Versus
Union of India & Ors.**

Mr. Kuntal Banerjee

...for the petitioner.

Ms. Chandreyi Alam,
Mr. Runu Mukherjee.

...for the UOI

The writ petitioner is aggrieved by an order of the Review Medical Board dated 28th September, 2020 which declared the petitioner unfit on medical ground for having a “Squint”.

The brief facts of the case are that the petitioner participated in the recruitment process to the post of constable GD in Assam Rifles in the examination held in the year 2018. The petitioner qualified at all stages except the medical examination held on 04.02.2020. The petitioner was found with a Squint and a permanent Tattoo over ventral surface of right forearm.

Being dissatisfied with the unfit certificate issued by the First Medical Officer, Dr. Iqbal Singh, the petitioner obtained views of a civilian doctor that there is an error of judgement on the part of the Armed Force Doctors. It was further opined by the civilian doctor that there was no squint.

Based on above views, the petitioner applied for review before the Review Medical Board. The said Review Medical Board comprising of three several doctors also found the petitioner unfit on account of Squint.

The petitioner would argue before this Court that there was no eye specialist in the Review Medical Board. Counsel for the respondent argues that it does not take a specialist to detect the Squint in any candidate and hence, absence of an eye specialist, if at all, is not fatal to the impugned decision.

This Court notes that the petitioner underwent corrective surgery to remove his tattoo on the forearm prior to seeking review before the Review Medical Board. The same by itself constitutes disqualification for any review apart from being an attempt to mislead the authorities.

This Court further notes that the petitioner was found with Squint by the first Medical Officer and also by the Review Medical Board comprising of three several doctors.

This Court sees no reason to disagree with overviews of four Medical Officers, who have undisputedly found the petitioner with the Squint.

The unreported judgement of a Co-ordinate Bench of this Court in the case of **Virendra Kumar Ray Vs. Union of India and others** passed in **WPA No. 10492 of 2020** being order dated 24.12.2020,

relied upon by the petitioners, would have no manner of application in the facts of the present case.

This Court is of the view that a Writ Court under Article 226 of the Constitution of India does not sit in appeal over the findings of an Administrative Authority. Even if two views are possible, a Writ Court under Article 226 of the Constitution of India cannot impose the other plausible views on the Authorities.

For the reasons stated hereinabove, the writ petition must fail and is dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)