

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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IN VIRTUAL COURT

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**CWP No. 18015 of 2021
Date of decision : 13.9.2021**

Sachin

.....Petitioner

Vs.

Union of India and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Jasbir Mor, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari quashing the impugned order dated 28.1.2020 (Annexure P-16), vide which appeal of the petitioner was rejected by the Appeal Medical Board, Station Medicare Centre, 323 Wing Air Force, Jodhpur, declaring the petitioner 'unfit' for Group 'Y' Trades on account of *Pectus Excavatum*; on the ground that possibility of musculoskeletal disorders, cardiopulmonary disorders cannot be ruled out. Further prayer of the petitioner is for quashing the impugned Medical Examination dated 27.12.2019 (Annexure P-4) declaring the petitioner as 'medically unfit' on account of *Pectus Excavatum* for the post of Group 'Y' Trades against advertisement issued by the respondent for the post of 'C' Group/'Y' Group, Technical and Non Technical Recruitment 2019 1/2020 Batch (Airmen). It is also prayed by the petitioner that the respondents be directed to consider the claim of the petitioner for selection and appointment by declaring him 'medically fit' for the above said post, in view of the medical fitness

certificate of the Medical Board of the Air Force dated 16.7.2019 (Annexure

P-3) and Medical Fitness Certificate issued by the Maharaja Aggarsain Civil Hospital, Hisar dated 1.1.2021 (Annexure P-14), vide which the petitioner has been duly found 'medically fit' in all respect.

It is submitted by counsel for the petitioner that the petitioner was declared medically fit by Medical Board, 15, Air Force Hospital. However, on re-examination by the Medical Officer at the time of enrollment, the petitioner was declared to be 'medically unfit' on account of problem of *Pectus Excavatum*. The matter of the unfitness of the petitioner was further referred to the Appeal Medical Board. The Appeal Medical Board has never examined the petitioner. Only the opinion of the Medical Officer has been affirmed by the Board; without actually carrying out the medical examination of the petitioner. Thereafter, the petitioner got himself examined from Medical College, Agroha (Hisar) and it was opined there that any such problem with the petitioner; does not affect normal functioning of the petitioner.

Counsel has further submitted that, at this stage, he would be satisfied if the Appeal Medical Board actually examines the petitioner and frames its independent opinion qua the medical fitness of the petitioner.

Notice of motion.

Mr. Sunil K. Sharma, Advocate accepts notice on behalf of the respondents and submits that the petitioner has rightly been declared unfit and there is no necessity for re-examination of the petitioner. The Appeal Medical Board is the final authority in this regard.

Having perused the case file and having considered the arguments of counsel for the parties, this Court finds substance in the arguments of counsel for the petitioner. It is asserted in the petition and the record shows

that in the first instance, the petitioner was declared as 'medically fit' by none other than the Medical Board, 15, Air Force Hospital' headed by its President. However, subsequently, during medical re-examination at the time of enrollment; another medical officer declared the petitioner as 'unfit' by recording the problem of *Pectus Excavatum*. Thereafter, the petitioner was referred to the Appeal Medical Board. In view of the two different opinions of two medical authorities, the Appeal Medical Board should have physically examined the petitioner before framing any opinion. However, the Appeal Medical Board has gone by and has affirmed the report given by the re-examining Medical Officer, whereby the petitioner was declared as 'medically unfit'. Before framing this opinion, the petitioner has not actually been examined by the Appeal Medical Board. This has caused a serious prejudice and injustice to the petitioner. Hence, it would not be unjustified to direct the respondents to refer the petitioner to the Appeal Medical Board; with a further direction to the Appeal Medical Board to physically examine the petitioner and then to assess his medical fitness.

Accordingly, the present petition is disposed of with a direction to the respondents to again refer the petitioner to the Appeal Medical Board. The Appeal Medical Board is directed to physically examine the petitioner and then re-assess the medical fitness of the petitioner.

Let the necessary exercise be carried out within a period of two months from today.

(RAJBIR SEHRAWAT)
JUDGE

13.9.2021

Ashwani

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