

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

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**Reserved on: 7th April, 2021
Pronounced on: 19th April, 2021**

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W.P.(C) 945/2021

ARUN ATTRI

..... Petitioner

Through: Ms. Ria Gandhi, Advocate for Mr.
Ajit Kakkar, Advocate

Versus

UNION OF INDIA & ANR.

.... Respondents

Through: Mr. Avnish Singh, Advocate with
Sgt. Agnivesh, CASB.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

ASHA MENON, J:

1. The petitioner had applied to the post of Airmen in Group 'X' & 'Y' category in the month of July, 2019 pursuant to the Notification issued by the Central Airmen Selection Board, IAF. He cleared the Written Test (Phase-I) as well as the Physical and Efficiency Test (Phase-II) of the recruitment process. However, when he was asked to appear in the Medical Test (Phase-III) on 25th January, 2020, he was declared medically unfit. The petitioner claimed that he had been given a remark of "temporary unfit" without any justification or explanation of the medical deficiency. He further claimed that he had got himself examined

at All India Institute of Medical Sciences, New Delhi (“AIIMS”, for short), which issued him a certificate declaring him to be medically fit on 6th March, 2020 (7th March, 2020 as per document), after conducting ECG examination. However, the Appeal Medical Board also declared him unfit on 19th February, 2020. This, the petitioner claimed, was unjustified. Further, he claimed that none of the medical papers were supplied to him, which has also caused prejudice to him and indicated arbitrary action on the part of the respondents. The petitioner claims that when he sought a further Review Medical Examination, it was declined unreasonably and hence, he has filed the present petition seeking the following reliefs: -

“(a) To pass directions to the Respondents for bringing on record the Impugned Medical Unfitness Certificate dated 25.01.2020 and 19.02.2020 issued by the Central Airmen Selection Board, Barar Square, New Delhi,

(b) To set aside the Impugned Medical Certificate(s) dated 25.01.2020 and 19.02.2020 (Copy of same never supplied to the petitioner)

(c) Issue a writ in the nature of mandamus directing the Respondents to allow the Respondents to conduct re-medical exam. Alternatively, the Respondents to be directed for appointment of the Petitioner on the basis of the medical certificates issued by the Govt. Hospitals as mentioned above in the present Petition,

(d) To pass directions to the Respondents to pay the litigation cost as incurred by the Petitioner in filing of the Present Petition

(e) Issue any other/further direction as this Hon'ble Court may deem fit in the facts of the case.”

2. On 2nd February, 2021, we passed the following order: -

“The petition has been heard by way of video conferencing.

The present writ petition has been filed challenging the medical certificate dated 25th January 2020 and 19th February, 2020 issued by the Central Airmen Selection Board, Barar Square, New Delhi.

It is the case of the petitioner that the aforesaid certificates have not been supplied to him. However, learned counsel for the respondents, who appears on advance notice, has screen-shared report of the Medical Board dated 25th January, 2020 as well as the Report of the specialist dated 15th February, 2020 appointed by the Review Medical Board. He also states that the petitioner did not deliberately appear before the Review Medical Board though the Review Medical Board waited for the petitioner for one month. He has also screen-shared with the Court the receipt issued by the petitioner of the initial medical report dated 25th January, 2020. Let copies of the said documents be placed on record by the respondents after forwarding copies of the same to the counsel for the petitioner.

The aforesaid documents shall be e-mailed to both the court masters.

List on 17th February, 2021.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.”

3. On 17th February, 2021, the respondents were directed to re-file the documents. However, on 7th April, 2021, the respondents produced the original medical documents in the court.

4. Ms. Ria Gandhi, Advocate for the petitioner, submitted that the

petitioner was entitled to a further review medical examination since the AIIMS had found him to be medically fit. She also contended that the medical documents produced before the court were never supplied to the petitioner and he was left in the dark about the cause of his unfitness. It was further alleged that the petitioner was never examined and the unfitness had been declared “*in absentia*”.

5. We do not find any force in any of these contentions.

6. Mr. Avnish Singh, Advocate for the respondents, drew our attention to the application submitted by the petitioner on 27th January, 2020 in which it is clearly recorded that during preliminary examination held on 25th January, 2020, he was declared unfit on account of “(1) CVS Review – Tachycardia and (2) ECG ABN – Sinus Tachycardia”.

7. This clearly belies the claim of the petitioner that he did not know for what reason he had been declared unfit. Moreover, had the petitioner not known from what he was suffering, he would not have approached the AIIMS and sought an ECG and a medical opinion of his heart condition.

8. With regard to the contention that the petitioner had been declared unfit “*in absentia*” and that the petitioner had not been examined physically, it is to be noted that the petitioner does not deny that he had appeared for the Appeal Medical Board that had been conducted at Gwalior. In fact, the original records produced by the respondents in the Court on 7th April, 2021 include an ECG of the petitioner taken on 25th January, 2020 as well as the ECG taken during the Appeal Medical Board on 19th February, 2020, which bears his signatures on the reverse. Thus, to say that the petitioner had not attended the Appeal Medical Board and

was not physically examined, is completely against the record and the truth.

9. It is true that the petitioner had obtained a medical report from AIIMS. However, apart from the fact that the opinion given by a Senior Resident that her impression was that all parameters were within the normal limits, cannot be preferred over the opinion of a Lieutenant Colonel (AMC), who is described as a Graded Specialist (Medicine). In any case, this court has held in several cases that the Doctors of the Force are completely aware of the challenges and requirements of the service in the Indian Air Force and their opinion of the medical conditions of a candidate has to be preferred over the opinion of a Civilian Doctor, who has no understanding of the physical challenges that a member of the Force would be required to meet during his service. It is not possible for the court to allow the induction of less than able and fit youngsters into the Armed Forces at the cost of complete preparedness required of the Force to discharge their duties in the defence of the nation.

10. For these reasons, we find no merit in the present petition. The same is accordingly dismissed.

11. The original medical documents be returned to the respondents.

ASHA MENON, J

MANMOHAN, J

APRIL 19, 2021

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