

\$~Suppl.-31

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

+ **W.P. (C) 1317/2021 & CM APPL. 3707/2021**

SURENDRA SINGHPetitioner
Through: **Mr. Ranjan Kumar, Advocate**

Versus

SECRETARY (MHA) & ANR.Respondents
Through: **Mr. Avnish Singh, Advocate for**
UOI.

% **Date of Decision: 02nd February, 2021**

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the letter dated 25th November 2019 issued by IG, ITBP and seeks directions to conduct Review Medical Board under the supervision of specialist doctors and upon clearing of the same, the petitioner be given joining letter to join as a Constable with all consequential benefits.
3. Learned counsel for the petitioner states that the petitioner was found unfit in the first Medical Board on account of (i) Anal Tag, (ii) Blood Pressure 148/100, (iii) Overweight and (iv) Eyesight 6/9. He further states that the petitioner challenged the aforesaid findings before the Review Medical Examination Board.

4. Learned counsel for the petitioner states that as per the report of the Review Medical Board dated 04th October 2019, the petitioner's weight, eyesight as well as blood pressure were found within normal limits and no Anal Tag was found. However, he states that the petitioner was declared unfit for combatised service due to low pulse rate of 48 per minute.

5. Learned counsel for the petitioner states that vide impugned letter dated 25th November 2019, the petitioner was informed that no appeal lies against the decision of the ITBP Review Medical Board.

6. He emphasises that the petitioner subsequently got himself examined in V.M.M.C & Safdarjung Hospital, Dr. RML Hospital, Lady Harding Medical College and Smt. SK Hospital, New Delhi where he was declared medically fit.

7. Per contra, Mr. Avnish Singh, learned counsel for the respondent states that the Review Medical Board comprising specialists, after repeatedly conducting ECG, has opined that the petitioner is suffering from Sinus bradycardia (RBBB) and is not fit for joining the ITBP.

8. He further states that the last offer letter was issued to the selected candidates on 21st December, 2019 and basic training of the batch was completed on 31st July, 2020.

9. Having heard learned counsel for the parties, this Court is of the view that it is the Central Armed Police Forces (for short 'CAPF') doctors who are aware of the high standards of fitness required during the training and subsequent operations. This Court takes judicial notice of the fact that both training and operations in CAPF, in particular ITBP, are extremely demanding in terms of medical fitness of a candidate and a

private Doctor or a Doctor working in Government hospital may not be in a position to comment on the required medical standards in the CAPF.

10. A coordinate Division Bench of which one of us (Justice Asha Menon) was a member, in judgment titled **KM. Priyanka Vs. Union of India & Ors., W.P. (C) 10783/2020** decided on **21st December, 2020** has held as under:-

*“8. We have on several occasions observed that the standard of physical fitness for the Armed Forces and the Police Forces is more stringent than for civilian employment. We have, in **Priti Yadav Vs. Union of India** 2020 SCC OnLine Del 951; **Jonu Tiwari Vs. Union of India** 2020 SCC OnLine Del 855; **Nishant Kumar Vs. Union of India** 2020 SCC OnLine Del 808 and **Sharvan Kumar Rai Vs. Union of India** 2020 SCC OnLine Del 924, held that once no mala fides are attributed and the doctors of the Forces who are well aware of the demands of duties of the Forces in the terrain in which the recruited personnel are required to work, have formed an opinion that a candidate is not medically fit for recruitment, opinion of private or other government doctors to the contrary cannot be accepted inasmuch as the recruited personnel are required to work for the Forces and not for the private doctors or the government hospitals and which medical professionals are unaware of the demands of the duties in the Forces. In fact, the case of **Priti Yadav (supra)** also related to ‘cubital valgus’. It is also to be noted that the specialists that the petitioner had consulted had also found that the petitioner suffered from ‘cubital valgus’ and therefore, the findings by the Medical Boards were not wrong. 9. What may seem as a minor difference in the assessment of the Civil doctors in comparison to the assessment of the Medical Boards, may blow up into a serious health condition during the course of service with the CAPFs. It is not in the interest of either the Police Forces or candidates that their medical problems are brushed aside only on the plea that it was a question of employment. The general health of candidates would be permanently impacted due to the stress, both physical and*

mental, on account of these medical shortcomings. On the other hand, the government would be saddled with a Police Force where such personnel would seek soft postings because of their health conditions and low medical category. This would lead to dissatisfaction amongst the personnel in the Forces as some people, who ought not to have been taken into the Forces, would always benefit, whereas the others would be mostly faced with hard postings and duties.”

11. Since in the present case, specialists in Review Medical Board have opined that the petitioner is not fit for extreme exertion and he suffers from Sinus bradycardia (RBBB), this Court is of the view that the matter calls for no interference in writ jurisdiction.

12. In any event, the present writ petition is highly belated and suffers from laches inasmuch as the candidates who had appeared in the selection examination with the petitioner have already completed their basic training as far back as on 31st July, 2020.

13. Accordingly, the present writ petition and application are dismissed.

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

MANMOHAN, J

ASHA MENON, J

FEBRUARY 02, 2021

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