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

+ W.P.(C) 11243/2020

ABHIMANYU MOR Petitioner

Through: Mr. T. Parshad, Advocate.

versus

UNION OF INDIA, THROUGH SECRETARY

MINISTRY OF DEFENCE & ORS.. Respondents

Through: Mr. Anurag Ahluwalia, CGSC
with

Mr. Himanshu Pathak,
Mr. Abhigyan Siddhant
Mr. Nitnem Singh Ghuman and
Major Arjun Katoch,
Advocates.

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Date of Decision: 06th January, 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. By way of present writ petition, the petitioner has challenged the decision of the DGAFMS declining to hold Review Medical Board (RMB) against the decision of the Appeal Medical Board (AMB), which has found him unfit for service on account of kidney ailment '*Right Renal Calculus*'.
2. Learned counsel for the petitioner states that after the decision of the AMB, the petitioner was examined by two super specialty hospital, one of which was Army's own prestigious Base Hospital,

Delhi Cantt. and these hospitals did not find any evidence of the ailment found by the AMB.

3. Mr. Anurag Ahluwalia, Advocate for the respondents states that the RMB is not a matter of right and as it is presided over by Lieutenant General rank medical officer, the same should be resorted to in very rare cases. He also states that in the present case, stones in the kidney of the petitioner were found in two separate service hospitals' ultra sound reports. He also states that the possibility of the petitioner having undergone surgery for removal of renal stone after the AMB on 4th November, 2020 cannot be ruled out.

4. Having heard learned counsel for the parties, this Court is in agreement with the submissions of learned counsel for the respondent that a direction to hold RMB is not a matter of right but a matter of discretion. However, in the present case as two super specialty hospitals, including the Army's own prestigious Base Hospital, Delhi Cantt., have not found any evidence of '*Right Renal Calculus*' in the petitioner, this Court directs holding of a RMB to review the medical condition of the petitioner within ten days.

5. It is clarified that this order has been passed in the peculiar facts of the present case inasmuch as there is contrary medical opinion from the Army's own Base Hospital, Delhi Cantt.

6. In the event, the petitioner is found fit, he shall be allowed to join the Officers Training Academy NCC (Special) Entry-48 Course.

7. With the aforesaid directions, the present writ petition stands disposed of.

8. 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

JANUARY 06, 2021

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