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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 1st December, 2021

+ **W.P.(C) 8335/2021**

JATIN

..... Petitioner

Through Ms. Tanya, Adv. for Mr.
AjitKakkar, Adv.

versus

UNION OF INDIA & ANR.

..... Respondents

Through Mr. Vikrant N. Goyal, Adv.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

1. The present petition has been filed by the petitioner praying for a direction to the respondents to bring on record and set aside the impugned Medical Unfitness Certificates dated 11.02.2021 and 24.06.2021 issued by the Central Airmen Selection Board, Brar Square, New Delhi. The petitioner further prays for a direction to the respondents to conduct Re-Medical Examination at any place of choice of the respondents for appointment in the Indian Air Force.
2. It is the case of the petitioner that the petitioner applied for the post of 'Airmen' in Group 'X' and 'Y' category as per the notification issued by the Central Airmen Selection Board, Indian Air Force. The petitioner, upon clearing Phase-I and Phase-II of the recruitment process, was directed to appear for the Phase III- Medical Test which was conducted at SMC 3 Wing AF, Palam, New Delhi on 11.02.2021.

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Signed By: SHALOO BATRA

Location:

Signing Date: 03.12.2021

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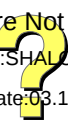
The petitioner appeared for the Medical Examination and was declared medically unfit on the ground of 'ECG Abnormality' and 'External Hemorrhoids 4.6 0 Clock'.

3. The petitioner, aggrieved by the decision of the Medical Examination, applied for an Appeal Medical Board. As the conduct of the Appeal Medical Board had been postponed several times in light of the COVID-19 pandemic, the petitioner got himself examined before government hospitals, wherein he was declared medically fit.

4. At the stage of the Appeal Medical Board, which was finally conducted on 24.06.2021, the petitioner was declared medically fit on the ground of 'ECG Abnormality' but again declared medically unfit on the ground of 'External Hemorrhoids'.

5. The learned counsel of the petitioner submits that at the stage of the Appeal Medical Board, a series of tests that can confirm the presence of External Hemorrhoids near the anus such as proctoscopy, digital rectum exam, colonoscopy, sigmoidoscopy and anoscopy, were not conducted on the petitioner. She further submits that as the condition of External Hemorrhoids is not a persistent one and can be cured by way of medication, the petitioner was not suffering from the said disability at the time of his Appeal Medical Board. She submits that therefore, the petitioner was not properly examined by the Appeal Medical Board.

6. The learned counsel of the respondent, on the other hand, placed reliance on Clause 2.4.5 of the Manual of Medical Examination and Medical Board (hereinafter referred to as the 'Manual') to submit that in case of External Hemorrhoids, only a visual Medical



Examination is required to be conducted. He further submits that in the present case, the petitioner had been examined by a specialist and therefore, no fault can be attributed to such medical report.

7. This Court, vide its order dated 01.10.2021, directed a doctor conversant with the disability in question to remain present in Court on behalf of the respondents.

8. Today the learned counsel for the respondents as well as the doctor on behalf of the respondents presented the medical file of the petitioner to the Court. Upon perusal of the medical file as well as consultation with the doctor, the stance of the learned counsel for the respondents was confirmed that a visual Medical Examination should suffice in the case of External Hemorrhoids. Clause 2.4.5 of the Manual is reproduced herein below:

“2.4.5. Anal Area. The most convenient method to examine this region in a recruit or candidate is to ask the individual to bend forward with legs apart and hold the buttocks apart with own hands and strain. The examiner should look for abnormalities like external haemorrhoids, skin tags or sentinel piles, fissures, sinuses, fistula and excoriation of skin. Grade II internal haemorrhoids will bulge out on straining and will retract when individual is relaxed. Grade three internal haemorrhoids will be seen permanently prolapsed through the anal verge and will require manual reduction. Pilonidal sinus should be looked for, differentiating it from post anal dimple.”

9. As far as the submission of the learned counsel for the petitioner that External Hemorrhoids is treatable and the petitioner was not suffering from the same at the time of Appeal Medical Board, we again find no merit in the same. At the outset it is to be noted that the Appeal Medical Board is merely to check that no error has been made by the original Medical Board in examining the candidate. Once the

Appeal Medical Board has confirmed the finding of the original Medical Board, especially through a specialist, we find no reason to doubt the same.

10. This Court in its judgment dated 21.12.2020 in ***K.M. Priyanka v. Union of India & Ors***, W.P.(C) 10783/2020, has held that once no *mala fide* is attributed and the doctors of the Forces, who are well aware of the demands of duties of the Forces in the terrains in which the recruited personnel are required to work, have formed an opinion that a candidate is not medically fit for recruitment, the opinion of private or other government doctors to the contrary cannot be accepted.

11. In ***Joginder v. Union of India & Ors***, W.P.(C) 522/2021, this Court has held that training and military operations are extremely demanding in terms of the medical fitness of a candidate and a private doctor or a doctor working in a Government hospital may not be in a position to comment on the required medical standards for the Force.

12. In ***Priti Yadav v. Union of India***, (judgment dated 15.07.2020 passed in W.P.(C) 3930/2020), in the context of medical test for recruitment in the officer cadre of Indian Air Force, this court held that fitness for serving requisite duties in the Air Force is a matter of opinion and if in the opinion of the authorities constituted under the Rules of the Air Force, the petitioner is unfit, a report of a medical practitioner of another organization which does not intend to recruit the petitioner and which will not be affected by the medical unfitness

of the petitioner, cannot be the basis for interfering with the assessment by the Air Force. It was further held that Medical opinion can vary from professional to professional and once the Rules provide for finality and are found to have provided for a review to eliminate the possibility of human error, the finality has to be accepted, unless a case for interference is made out.

13. In view of the above, we find no merit in the present petition, the same is dismissed.

NAVIN CHAWLA, J

MANMOHAN, J

DECEMBER 1, 2021/Arya/AB

Signature Not Verified

Signed By:SHALOO BATRA

Location:

Signing Date:03.12.2021

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