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

+ **W.P.(C) 11157/2021 & CM APPL. 34367/2021**

ADITYA TAMBE

....Petitioner

Through: Mr. Abhinav Gupta, Advocate with
Mr. Akshat Maheshwari and Mr. Harsh
Jaun, Advocates.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Siddharth Khatana, Advocate.

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Date of Decision: 30th September, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J. (Oral)

1. Present writ petition has been filed seeking a direction to the respondents to declare the petitioner as medically fit and, thus, consider the petitioner for admission in the Air Force Academy by conducting a fresh medical examination of the Petitioner qua his earlier condition of Gynecomastia and thereafter declare his overall results and to consider his case *de novo* on merits.
2. Learned counsel for the petitioner states that Gynecomastia cannot be a ground for declaring a candidate as unfit.
3. He further states that in the medical examination conducted between 8th March, 2021 and 12th March, 2021, the petitioner was declared unfit on the

ground that he was suffering from Gynecomastia and hypertension. He also states that vide order dated 2nd August, 2021 passed by the Appeal Medical Board, the petitioner was declared medically unfit by the respondents on the ground that he was suffering from bilateral Gynecomastia without considering the fact that the Petitioner had undergone a minimal invasive surgery for the same on 6th April, 2021 and was no longer suffering from Gynecomastia.

4. He states that the Petitioner preferred a Review before the Review Medical Board, stating that he does not have Gynecomastia and he has been declared fit by the consulting Doctor and the Doctors of the reputed AIIMS Bhopal. He points out that the order passed by the Review Medical Board was passed only on 31st August 2021, i.e. after the publication of the merit list and was received by the Petitioner on 7th September 2021, whereby the Petitioner's review was rejected and he was again found unfit on the same grounds as mentioned in the original and appeal medical board.

5. Clause 3.5.3 of extract of Indian Air Publication (IAP) 4303 (5th Edition) clearly stipulates that candidature of a candidate having Gynecomastia shall be rejected.

6. Admittedly, on the date the initial medical examination was held, the petitioner was suffering from bilateral Gynecomastia. Consequently, petitioner's candidature was correctly rejected by the respondents.

7. Though the petitioner had undergone surgery between initial medical examination and appeal medical examination board, yet in the appeal only the decision making process had to be and was reviewed. In the opinion of this Court, if the petitioner was disqualified on the date of examination, the decision making process of the respondents cannot be faulted with.

8. Accordingly, the present writ petition along with pending application being bereft of merit is dismissed.

MANMOHAN, J

NAVIN CHAWLA, J

SEPTEMBER 30, 2021
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