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

Date of Decision: 25.10.2021

+ **W.P.(C) 11937/2021**

LOKESH

..... Petitioner

Through Mr.Prashant Parihar, Adv.

versus

UNION OF INDIA & ANR.

..... Respondents

Through Mr.Naginder Benipal, Sr. Panel
Counsel with Ms.Harithi
Kambiri, Adv.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

1. The Petitioner has filed the present petition seeking direction to the Respondent to take the medical report of the Sawai Mansingh Hospital, Jaipur as the final medical report or in the alternative to consider the Petitioner for detailed medical examination from a neutral party.

2. Learned Counsel for the Petitioner submits that the Petitioner had applied for the post of Constable (Driver) with the Indo-Tibetan Border Police (hereinafter referred to as 'ITBP'). He states that the petitioner qualified the PET/PST test but was declared unfit during the review medical examination conducted at Referral Hospital, Greater

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Noida, on ground of “small atrophic left testes”. He states that the Petitioner later had a medical examination at the reputed Savai Mansingh Hospital, where the petitioner was declared fit.

3. Learned Counsel for the Petitioner submits that the medical examinations conducted by the Respondent No. 2 is not up to the mark and that there are discrepancies in the process. He states that they have not been conducted with due care and diligence.

4. We have considered the submissions made by the learned counsel for the parties. As is evident, the petitioner has been duly examined by the Medical Board as also by the Review Medical Board and was found unfit for appointment.

5. This Court in its judgment dated 21st December, 2020 in ***K.M. Priyanka v. Union of India & Ors., W.P.(C) 10783/2020***, has held that once no *mala fide* is attributed to one particular individual 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.

6. 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.

7. In the present case, the medical report from Savai Mansingh Hospital also records that petitioner’s testes is small, however, still

holds him to be fit for service. As held in the judgments referred above, it is for the doctors of the Forces to decide whether a candidate, with given disease/disability, is medically fit for being recruited in the Forces keeping in view the special demand of the Forces. A doctor working in a Government hospital may not be in a position to comment on the required medical standards for the Force. Therefore, the report from Sawai Mansingh Hospital cannot prevail over the report of the Referral Hospital.

8. In view of the above, we find no merit in the present petition. The same is dismissed. There shall be no order as to costs.

NAVIN CHAWLA, J

MANMOHAN, J

OCTOBER 25, 2021
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