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

Date of Decision: 03.12.2021

+ **W.P. (C) 13125/2021**

RAMESH KUMAR

..... Petitioner

Through Mr. Ramesh Kumar Yadav, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Mr. Dilbag Singh, Sr. CGSC,
UOI for R-1.

Dr. Naishadh Jivarajani, Eye
Specialist in person is present
virtually.

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 order dated 27.10.2021 passed by the Review Medical Board of the respondent no. 2 declaring the petitioner as 'Unfit' for appointment as Sub-Inspector in Delhi Police, CAPFs and Assistant Sub Inspector in CISF Examination-2019 due to defective colour vision. The petitioner further prays for a direction to the respondents to get the petitioner medically examined towards colour vision by a fresh and independent Medical Board at any government hospital.

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2. It is the case of the petitioner that the petitioner applied pursuant to the Sub-Inspector in Delhi Police, CAPFs and Assistant Sub Inspector in CISF Examination-2019. The petitioner, upon fulfilling the eligibility criteria and clearing the Physical Endurance/Standard Test (PET/PST), was invited for a Detailed Medical Examination on 25.10.2021 at Composite Hospital, CRPF, GC Campus Golf Course Road, Ajmer, Rajasthan and was declared medically unfit on the ground of 'defective distance vision, defective colour vision, Pilo NIDAL SINUS, chronic dermatitis over chest, face, neck and upper back area'.

3. The petitioner, aggrieved by the decision of the Detailed Medical Examination, applied for a Review Medical Examination. At the stage of the Review Medical Examination, the petitioner was found medically unfit solely on the ground of defective colour vision vide order dated 27.10.2021.

4. It is the case of the petitioner that the petitioner had been declared medically fit and not suffering from defective colour vision by Goyal Netra Chikitsalaya (Super Specialty Eye Hospital), Mahavir Chowk, Mahendragarh Road, Haryana and the Sawai Man Singh Hospital, Jaipur.

5. The learned counsel for the petitioner submits that as per the Guidelines for Recruitment Medical Examination in CAPF and Assam

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Rifles issued by the Ministry of Home Affairs, Government of India, a person with defective colour vision CP-IV would be unable to read plates 2-9 and 22-25. He submits that in the present case the only allegation in the Review Medical Board is that the petitioner was unable to read plate 22. The petitioner was admittedly not made to read the other plates.

6. This Court, vide its order dated 23.11.2021, directed the following:

“Mr. Dilbag Singh, learned counsel for the respondent-UOI, is directed to produce the medical record of the petitioner on the next date of hearing. He is also directed to obtain instructions as to whether an Eye Specialist was a part of the team of Doctors that had examined the petitioner at the Review Medical Board stage. A typed copy of the report of the Review Medical Board shall also be placed on record by the respondent-UOI.”

7. 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 specialist doctor, it was brought to light that the petitioner was unable to read plate 22 during the Ishihara test to determine defective colour vision. The specialist doctor further confirmed that the petitioner suffers from an extreme form of defective colour vision wherein he can only identify primary colours. Therefore, merely because the petitioner was not made to read the

other plates, in our opinion would not be sufficient to cast a doubt on the medical examination of the petitioner.

8. At the outset it is to be noted that the Appeal Medical Board is merely to ensure that no error is 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.

9. 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.

10. 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.

11. 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. The said judgment would squarely apply where recruitment is to be made to CAPF.

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

NAVIN CHAWLA, J

MANMOHAN, J

DECEMBER 3, 2021/AB

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