

\$~75

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 17th December, 2021

+

W.P.(C) 13134/2021 & CM APPL. 41422/2021

PANKAJ KUMAR

..... Petitioner

Through: Mr.Amit Kaushik & Ms.Bhateri
Devi, Advs.

versus

CENTRAL RESERVE POLICE FORCE AND ORS

..... Respondents

Through: Mr.Anurag Ahluwalia, CGSC
for UOI with Dr.Amarnath
Kumar, CRPF, DC/SMO &
Dr.Naishadh J. Jivrajani, BSF,
DC.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

1. The petitioner had applied for the 'Delhi Police, CAPFs and Assistant Sub-Inspector in CISF Examination, 2019'.

2. The petitioner was declared medically unfit for appointment during the Detailed Medical Examination on the following grounds:-

1. Overweight by 6 kg.
2. Deviated Nasal Septum Lt Side
3. Squint
4. Defective Distant Vision

3. It is the case of the petitioner that the respondents had referred the petitioner to the Jawahar Lal Nehru Hospital, Ajmer (hereinafter referred to as 'JLN Hospital') for a Detailed Medical Examination. In such examination the petitioner was found to be medically fit, however, the Review Medical Examination Board again declared the petitioner to be medically unfit on account of being overweight by 3.2 kg and squint.

4. The learned counsel for the petitioner has drawn our attention to the 'Revised Uniform Guidelines for Review Medical Examination in Central Armed Police Forces and Assam Rifles for GOs & NGOs: Amendment Thereof (hereinafter referred to as 'Revised Uniform Guidelines')' dated 31.05.2021 to contend that in terms of Clause 2(d) thereof, the Body Mass Index (hereinafter referred to as 'BMI') of a candidate has to be considered to arrive at conclusion about the candidate being overweight and a variation of 5 kg more or less from the minimum or maximum limit may be accepted. He submits that, therefore, the petitioner could not have been declared medically unfit on account of being overweight, as the difference found was only 3.2 kg. He also draws our reference to the referral page, whereby the petitioner was referred to JLN Hospital, which records that even the BMI of the petitioner was within the range prescribed and that the candidate is not overweight.

5. Pursuant to the order of this Court dated 03.12.2021, the respondents have produced before us the original medical record of the petitioner. The doctors of the Review Medical Examination Board are also present in Court today.

6. From the medical record produced before us, we find that the Ophthalmologist at JLN Hospital, in a report dated 23/25.10.2021, has opined that no squint was found present in the petitioner. The doctors present in Court explain that no opinion on the squint was called for by the Review Medical Board from the JLN Hospital. He further submits that the said opinion does not reflect that any test was carried out on the petitioner before giving such opinion. The doctor present in Court submits that on the other hand, he had carried out a Hirschberg's Corneal Reflex test on the petitioner and found exotropia equivalent to 15 degree. He submits that, therefore, no reliance can be placed on the report of the JLN Hospital in this regard.

7. We have considered the submissions made. As far as the declaration of the petitioner being overweight is concerned, in view of Clause 2(d) of the Revised Uniform Guidelines and the observation in the referral document produced before us, we find that the petitioner could not have been declared unfit for being overweight by 3.2 kg. The referral sheet also records that the petitioner was not found overweight.

8. As far as the presence of squint is concerned, the report from the JLN Hospital at least creates a doubt. For giving a fair opportunity to the petitioner for appointment, we are of the opinion that petitioner should be examined by the Army R&R Hospital, New Delhi (hereinafter referred to as 'R&R Hospital') for his alleged squint by an Ophthalmologist. For this purpose, the respondent shall request the R&R Hospital to constitute a Board of doctors consisting of a specialist Ophthalmologist and give an appointment to the petitioner for being examined within a period of ten days from today. The report of the R&R Hospital shall be considered as final with no party being allowed to challenge the same. The respondent shall act upon the appointment application of the petitioner in accordance with the report that is received from the R&R Hospital within a period of two weeks from the receipt of the report. The report received from the R&R Hospital shall also be shared with the petitioner.

9. The petition is disposed of with the above directions.

10. The original medical record of the petitioner is returned back to the respondents.

NAVIN CHAWLA, J

MANMOHAN, J

DECEMBER 17, 2021/rv