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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 17th December, 2021

+ **W.P.(C) 13139/2021 & CM APPL. 41434/2021**

SHARON FRANCIS

..... Petitioner

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

versus

CENTRAL RESERVE POLICE FORCE AND ORS

..... Respondents

Through: Mr.Rajesh Gogna, CGSC with
Mr.Arihant Jain, Adv. 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 unfit for appointment during the Detailed Medical Examination on the following grounds:-
 - i.) Overweight
 - ii) Flat foot present
 - iii) Distant vision (Rt) eye

iv). Anaemia

3. It is the case of the petitioner that the petitioner was thereafter referred to the Jawahar Lal Nehru Hospital, Ajmer (hereinafter referred to as 'JLN Hospital') for further examination. The petitioner contends that during such examination, the petitioner was found to be medically fit. The petitioner contends that inspite of the said report finding the petitioner to be medically fit, the petitioner was again declared unfit on the grounds of 'Defective distance vision (Rt)', 'Overweight by 2 kg' and 'Flat Foot' by the Review Medical Examination Board.

4. 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 who constituted the Review Medical Board are also present in the Court today.

5. Perusal of the medical record of the petitioner shows that there is a certificate dated 28.10.2021 which records the vision of the petitioner to be 6/6 in both eyes.

6. The doctors present in Court explain that the petitioner was never referred to the JLN Hospital for an opinion on his vision and therefore, the abovementioned certificate is not binding on the respondent. They further submit that the said certificate is in fact not even signed or stamped and therefore, is doubtful.

7. Be that as it may, as the said certificate forms part of the original medical record of the petitioner and as it is not denied that

otherwise the petitioner was referred to the JLN Hospital. We also note that in the Detailed Medical Examination, the petitioner's eye vision was recorded as 6/9 (Rt) and 6/6 (Lt), while in the Review Medical Examination the petitioner's vision was recorded as 6/12 (Rt) and 6/6 (Lt). Keeping in view the varying reports of the Detailed Medical Examination and the Review Medical Examination as also the certificate of the JLN Hospital, we find this to be a fit case for issuing a direction for re-examination of the petitioner.

8. As far as the declaration of petitioner as unfit on account of being overweight by 2 kg is concerned, the learned counsel for the petitioner draws our attention to Clause 2(d) of the 'Review Medical Examination in Central Armed Police Forces and Assam Rifles for GOs & NGOs: Amendment Thereof' dated 31.05.2021. The same prescribe 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. The petitioner was found to be overweight by only 2 kgs by the Review Medical Board and it is not stated if his BMI was checked.

9. As far as finding of the petitioner being suffering from 'Flat Foot' is concerned, we find that the petitioner was referred to the JLN Hospital for obtaining an opinion of him being suffering from flat foot with an X-Ray. The opinion of the orthopaedic from JLN Hospital is not on record in the original medical file. In fact, the petitioner contends that without waiting for such opinion, the Review Medical

Examination Board declared the petitioner unfit on account of flat foot again.

10. In any view, as we are referring the petitioner to the Army R&R Hospital, New Delhi (hereinafter referred to as 'R&R Hospital') for an opinion on his eye vision, we are of the opinion that the petitioner can also be examined by an Orthopedic at the R&R Hospital on his alleged unfitness on account of being flat footed. For this purpose, the respondent shall request the R&R Hospital to constitute a Board of doctors consisting of a specialist Ophthalmologist and a specialist Orthopedic 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.

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

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

NAVIN CHAWLA, J

MANMOHAN, J

DECEMBER 17, 2021/rv