IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.4711 of 2015 (O&M)
DATE OF DECISION : 10th MAY, 2022

Ramavatar

…. Petitioner

Versus

Union of India through its Secretary, Ministry of Home Affairs, New Delhi & others

…. Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Surender Pal, Advocate for the petitioner.

Mr. Rajinder Singh Malik, Advocate
for the respondent-UOI.

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RAJBIR SEHRAWAT, J. (Oral)

The petitioner has filed this petition under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature of certiorari for quashing the action of respondent No.5 (Annexure P-4) by which the petitioner was declared medically unfit for the post of Sub-Inspector in Delhi Police, CAPFs and Assistant Sub-Inspector in CISF; along with certain other prayers.

The case of the petitioner is that he had participated in the process of selection carried out for the post of Sub-Inspector in Delhi Police, CAPFs and Assistant Sub-Inspector in CISF. The petitioner qualified the written test. He also passed the physical efficiency test. However, at the final stage of the process of selection the candidature of

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the petitioner has been cancelled because he was found to be medically unfit. The counsel for the petitioner has submitted that this court had got the medical re-examination of the petitioner conducted through the Post Graduate Institute of Medical Education & Research, Chandigarh (in short, the PGI). The report from the PGI has come. Therefore, the respondents should be directed to reconsider the aspect of medical fitness of the petitioner. It is further submitted that even if the problem, which is pointed out qua the petitioner, is taken to be correct, the same does not interfere with the performance of the duties of the post for which the selection is being made. Hence the petitioner deserves to be appointed as per his merit.

On the other hand, the counsel for the respondents has submitted that the petitioner was found suffering from Atrophic Right Testis. The said ailment has been prescribed to be a disqualification for a candidate for the posts for which the selection was being conducted. Hence, the petitioner has rightly been declared to be unfit by the review medical board. The counsel has further submitted that even the report from the PGI does not rule out the problem which had been earlier pointed out by the review medical board. Hence, there is no ground for issuance of direction for reconsideration of the medical fitness of the petitioner.

Having heard the counsel for the parties, this court does not find any substance in the argument raised by counsel for the petitioner. It is not even in dispute that after petitioner was examined by the review

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medical board, he was held unfit on account of Atrophic Right Testis. The said medical term is the name for description of a small size of right testis. The relevant rules prescribing standards of medical fitness for the post in question have specifically provided that Atrophic Testis shall be disqualification for the post; and candidate suffering from same shall not be recruited in the force. Although, to rule out any arbitrariness/human error on the part of the Review Medical Board, this court has got re-examination of the petitioner done form PGI. However, a perusal of the report of the PGI also shows that the PGI has not ruled out the problem which was earlier pointed out by the Review Medical Board. Rather the report of the PGI is commensurate with the report of the Review Medical Board of the Force. The report of the PGI also records the reduced size of the right testis of the petitioner. Hence, the same medical condition has been confirmed by the PGI.

Although, the counsel for the petitioner has also submitted that the medical condition found with the petitioner does not, in any manner, interfere with the duties of the post, for which the selection in question was being carried out, however, this court does not find any substance in this argument. Once the rules have prescribed the Atrophic Testis to be a disqualification for the post, then this court cannot enter into consideration of the fact whether the medical condition interferes with the performance of the duties or not. The Forces are the best judge and the expert to decide as to which ailment interferes with the performance of the duties of the post in the respective Forces. The court

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cannot sit as an expert qua the said problem. The experts of the Forces, as well as, from the PGI, have confirmed that the petitioner is having the medical condition which prohibits his recruitment in the Force. Hence even this argument of the counsel for the petitioner does not hold the case of the petitioner in any manner.

In view of the above, finding no merit in the present petition, the same is dismissed.

10th MAY, 2022 **(RAJBIR SEHRAWAT)**
'raj' **JUDGE**

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*

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