

215.

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH**

**CWP-3729-2018**

Date of Decision: 17.10.2022

Vikas Kumar

.... Petitioner

Versus

Director General Health, Sector 6, Panchkula, and others.

.... Respondents

**CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. S.K. Biriwal, Advocate,  
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

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**JAISHREE THAKUR.J**

1. The instant writ petition has been filed in the nature of certiorari to quash the impugned medical certificate issued by respondent No.4, dated 25.06.2017, Annexure P-2, vide which the petitioner has been declared unfit for the post of Constable on the ground of having flatfeet, with a further prayer for issuance of a writ in the nature of mandamus directing the constitution of a Medical Board to verify the said question.

2. In brief, the facts of the case are that respondent No.3 advertised 4500 posts of Male Constable (General Duty) vide advertisement No.8 of 2015. The petitioner, being eligible, applied for the same under the SC category and was issued an admit card. Thereafter, he was called for physical verification test and was declared qualified and then was directed to appear before the Medical Board, Faridabad, for medical test. However, in the

medical test, he was declared unfit by the Orthopaedic Department for the reason that he is flatfooted. The mother of the petitioner moved an application on 05.09.2017 to the competent authority for giving an opportunity to the petitioner for his re-medical test and similar application was again given on 12.09.2017. Respondent No.1 considered the application and the petitioner along with the cases of other unsuccessful candidates of the medical examination. These candidates were called before the Director, PGIMS, Rohtak for another medical examination, but no action was taken thereon. Ultimately, respondent No.4 sent a letter to the Medical Superintendent, PGIMS, Rohtak, for conducting re-medical examination of unfit candidates on 30.10.2017. However, when the petitioner appeared before the Medical Board, he was intimated that he cannot be re-examined as his medical examination has been conducted by the equally competent board. Thereafter, the petitioner got himself medically examined before the Civil Hospital, Ambala Cantt. on 18.12.2017, wherein it was mentioned that “*B/L Foot Exam No Bone Abnormality found.*” The petitioner also got himself medically examined from a private hospital on 21.12.2017 and the x-ray report would show that there was no bone abnormality. He would also rely upon the report of the Civil Surgeon Faridabad dated 25.6.2017 to the effect that there is no abnormality. He made several representations to the respondents for conducting his re-examination in view of medical reports from the Civil Hospital, Ambala and of the private hospital which show that there is no bone abnormality, but no action has been taken thereon. Hence, the petitioner approached this Court.

3. Learned counsel appearing on behalf of the petitioner would submit that the petitioner has wrongly been denied an appointment to the post of Male Constable by holding that he is flatfoot, which is not borne out from the reports as issued by the Civil Hospital, Ambala and of C. Lall Hospital.

4. *Per contra*, learned counsel appearing on behalf of the respondents would submit that the petitioner was medically examined at the time of his recruitment process and it was found that he is flatfoot and on that basis, he could not be appointed. It is argued that Rule 12.17 of Punjab Police (Haryana Amendment) Rules, 2015 provides that *no person shall be eligible for direct recruitment, if he is colour blind or flat foot or has knocking knees*. The same clause was mentioned in the advertisement as well. It is submitted that the Civil Surgeon, Faridabad had initially conducted the medical examination of the petitioner that itself shows “*B/L Pes Planus (flat feet) hence Ortho medically unfit*”. Thereafter, the petitioner was re-examined and it was reported vide Annexure R-4, dated 31.07.2017 that “*there is bilateral flat feet (pes planus)*”. A reply has also been filed by the Civil Surgeon, Faridabad that initially when the petitioner was medically examined by the Medical Board on 25.06.2017, there was an opinion that “*Bilateral Pes Planlus is flexible and there is no functional deficit seen.*” In order to cross-check that opinion, the petitioner was referred to the Higher Board at Shaheed Hassan Khan Mewati Government Medical College, Nalhar, Mewat and the said Board too gave the remarks of “*Bilateral Pes Planus (Flexible type).*” It is thereafter that the certificate was issued on 29.06.2017 that the candidate is with bilateral pes planus (flexible type)

(bilateral flat foot) & hence unfit orthopedically.

5. It is further submitted that the petitioner cleverly got himself examined from an Orthopedician, who in a routine manner checked him and opined that there is no bone abnormality found. The matter was looked into by the Director General, Health Services, Haryana through Civil Surgeon, Ambala, as to why there was a different opinion and the concerned Ortho Surgeon has submitted that *“as per record Mr. Vikas Kumar, Male 24 years came as a patient in Civil Hospital, Ambala Cantt. in OPD on 8/12/2017 vide OPD Slip no.UHID-402020146407, OR 163, Room No.04 for simply check up of his feet whether any treatment required for it. I examined, and there was no bony abnormality found. He had not shown any ID proof, photo so I cannot identify the person who did the court case is the same one who has come in the OPD. He also did not mention anything regarding fitness/unfitness or he was examined earlier anywhere in medical board. He just came like other patients came in our OPD for treatment and also in our OPD slip no word like unfit/fit is mentioned. In our OPD slip it is mentioned that this cannot be used for MLC cases.”*

6. I have heard learned counsel for the petitioner as well as learned State counsel and have perused the pleadings of the case.

7. Admittedly, the petitioner was selected for the post of Male Constable in Haryana Police but was declared medically unfit on account of having *bilateral flat feet (pes planus)*. It is submitted that there are two reports available which would reflect that there is no bone abnormality. The first report that is available on the record is of the Civil Surgeon, Faridabad

dated 25.06.2017 to the effect that bilateral pes planus is flexible and there is no functional deficit seen. A re-medical was ordered by the Commandant vide order dated 06.10.2017 of all those candidates who had been declared medically unfit and the petitioner's name was reflected at serial No.14. He was deputed to present himself before the Civil Surgeon, Faridabad who declared him medically unfit. The petitioner then got himself re-examined on his own accord before the Civil Hospital, Ambala and a private hospital who both declared that there is no bone abnormality. However, re-medical examination as done by the Board of PGIMS, Rohtak, would clearly reflect that there is bilateral flatfeet. The said board comprises of eminent Associate Professors and senior Professors of the Department of Orthopedics and therefore, cannot be brushed aside. Moreover, as per the explanation furnished by the Civil Surgeon, Faridabad regarding a report furnished that the petitioner was not suffering from any bone abnormality, it has been submitted that the Doctor concerned has submitted that he cannot identify and verify whether the person who presented himself for examination was the petitioner and the same person who had applied for the post of Constable.

8. A perusal of the Annexure P-2 as issued by the Civil Surgeon, Faridabad, would show he has given a definitive opinion that the petitioner is not fit for appointment. The document as relied upon by the petitioner dated 25.06.2017 is a medical done in normal routine and as explained, the doctor has given an explanation that he cannot say whether the certificate was issued to the same person who had applied for the post of Constable.

9. The present writ petition that has been filed raises disputed questions as to whether or not the petitioner is suffering from bilateral flat feet (pes planus). Contradictory reports are also available on the record as issued by the Civil Hospital, Faridabad and Civil Hospital, Ambala which would show that there is no bone abnormality. Though there is another report available of the same Civil Hospital, Faridabad, which has held that the petitioner has a bone abnormality. The issue has been led to rest by the medical opinion as given by the Medical Board of PGIMS, Rohtak which has clearly held that the petitioner is suffering from bilateral flat feet.

10. Rule 12.17 of the Punjab Police (Haryana Amendment) Rules, 2015 clearly specifies that the candidates who are having colour blindness or flatfeet or knocking knees need not to apply and the same clause was also mentioned in the advertisement itself.

11. Therefore in view of the fact that the petitioner is medically unfit, no mandamus can be issued to consider him for appointment. Consequently, the writ petition stands dismissed.

**(JAISHREE THAKUR)**  
**JUDGE**

**17.10.2022**

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|---------|----------------------------|--------|
| sanjeev | Whether speaking/reasoned: | Yes/No |
|         | Whether Reportable:        | Yes/No |