

215/A.

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

CWP-6324-2018 (O&M)

Date of Decision: 17.10.2022

Vikas Kumar

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Praagbir Singh Dhindsa, Advocate, for
Mr. H.S. Dhindsa, Advocate, for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR.J

1. The instant writ petition has been filed in the nature of certiorari for quashing impugned medical certificate issued by respondent No.4, dated 15.11.2017, Annexure P-14, vide which, the petitioner has been declared unfit for the post of Constable on the ground of *Alternate Divergent Squint*, 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 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. He was medically examined but was declared unfit by the Ophthalmology (Eye) Department

for the reason that there is Alternate Divergent Squint. Thereafter, the petitioner got himself examined at PGI, Chandigarh and after getting treatment for correction of his squint , it was found that he is not having any problem as mentioned in the medical certificate as issued by the Medical Board, Faridabad. He made a representation on 12.09.2017 for his re-medical to respondent No.2-Director General, Health Services, Haryana, who forwarded the same for further action to the Director, PGIMS, Rohtak and to constitute a Medical Board and submit its report to respondent No.2. However, the office of PGIMS, Rohtak denied to constitute a Medical Board and returned back the application of the petitioner to respondent No.2 without conducting his medical examination. Thereafter, respondent No.2 submitted a letter to respondent No.5 for conducting his re-examination, who vide letter dated 03.10.2017 sought a report from PGIMS, Rohtak. Accordingly, the record pertaining to the medical of the petitioner was sent to the Medical Superintendent, PGIMS, Rohtak. The Medical Board did not examine him and on the basis of previous report, submitted a fresh report on 09.10.2017 stating that *“in view of findings above, the fitness of the candidate for the said post may be decided by the concerned authorities as per rules”* and the said report was submitted to respondent No.6 on 10.10.2017, who further made communication with the PMO, Civil Hospital, Faridabad on 17.10.2017 seeking an opinion of Ophthalmologist whether the petitioner is fit to join the duty or not. The petitioner was declared unfit vide certificate dated 15.11.2017, Annexure P-14, by stating that he is having a left divergent squint for near and distant vision. Hence, the present petition.

3. Learned counsel appearing on behalf of the petitioner would contend that re-examination of the petitioner was not conducted and the certificate issued on 15.11.2017 is based on the previous report. It is contended that report dated 12.09.2017, Annexure P-4, issued by the doctor from PGIMS, Chandigarh, wherein the petitioner was found having Visual Axis Parallel, is contrary to the report dated 09.10.2017, Annexure P-11, which shows that there is left divergent squint for near and distant. Thus, the petitioner has prayed for his re-examination from some other equally competent board.

4. *Per contra*, learned counsel appearing on behalf of the respondents would submit that initially in the recruitment process, the petitioner was medically examined by the Civil Surgeon, Faridabad and was issued a certificate dated 05.07.2017 with the remarks that, “*unfit because of B/Eyes Alternate Divergent Squint.*” On the request of the petitioner, he was re-examined on 10.10.2017 and was found unfit. Since he was not found medically fit as per the Punjab Police (Haryana Amendment) Rules, 2015, he has been rightly denied appointment for the post of Constable in the Haryana Police.

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

6. Admittedly, the petitioner was selected for the post of Constable in Haryana Police, however, was declared medically unfit because of *B/Eyes Alternate Divergent Squint*, as per the report dated 25.06.2017 of the Medical Board, Faridabad, which opinion was cross-checked and on the basis of

second opinion, petitioner was issued a certificate on 29.06.2017 with the remarks that *“the recruit must be able to read the Test Dot Card at a distance of ten feet without any mistake, with each eye without spectacles. Failure to do this renders him unfit. Each eye must have a full field of vision as tested by hand movements. Squint or any other morbid condition of the eyes or eye-lids liable to the risk of aggravation or recurrence will render him unfit.”* Petitioner is relying upon Annexure P-4 which is an OPD slip issued by Eye Surgeon, PGIMS, Chandigarh, vide which, the petitioner has been examined in a routine manner and the same has not been issued by Medical Board, whereas the medical report by which the petitioner has been declared unfit is based on the report of eminent doctors, which cannot be brushed aside.

7. In view of above, since the petitioner has been declared medically unfit by the Medical Board which consists of eminent doctors, no mandamus can be issued to consider him for appointment. Consequently, the writ petition stands dismissed.

8. All the pending misc. applications as on date are disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

17.10.2022

sanjeev

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No