

234 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-27-2020

Date of Decision: 02.09.2022

Sumit

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Ganesh Sharma, Advocate,
 for the petitioner.

 Mr. Satya Pal Jain, Additional Solicitor General of India, with
 Ms. Amrita Singh, Advocate,
 for the respondents.

RAJBIR SEHRAWAT, J. (ORAL)

 This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari quashing the impugned order dated 18.10.2019 (Annexure P-6) passed by the respondents, whereby the petitioner has been declared medically unfit on account of “CVS REVIEW” (Cardiovascular Status); as also seeking issuance of a writ of mandamus directing the respondents to reconsider the case of the petitioner for which he has been declared medically unfit for “CVS REVIEW” and also seeking directions to the respondents to constitute a Medical Board for the medical of the petitioner.

 Learned counsel for the petitioner has submitted that the petitioner had participated in the process of selection for the post of Airmen in the Indian Air Force. However, at the stage of medical examination, the

petitioner was adjudged as medically unfit by the Recruiting Medical Officer by pointing out two problems, i.e. “CVS REVIEW” and “HYPER HYDROSIS”. However, since the petitioner was entitled to avail the remedy of appeal before the Appeal Medical Board, therefore, the petitioner had approached the Appeal Medical Board; as well. The Appeal Medical Board has found one count of unfitness as non-existence, therefore, he was declared fit on that count, however, the Appeal Medical Board also declared the petitioner to be medically unfit on the count of “CVS REVIEW”. Learned counsel has further submitted that at the time of declaring medically unfit by the Appeal Medical Board, the petitioner was not actually medically examined by the Board and he was declared medically unfit only on re-assessment of the record, which was submitted to it by the Recruiting Medical Officer. Learned counsel has further submitted that, otherwise, the petitioner has been declared to be medically fit even on this count by a private Heart Institute named as Noble Heart and Super Speciality Hospital, Rohtak. Therefore, the petitioner is medically fit and the respondents deserve a direction to offer appointment to the petitioner.

On the other hand, learned counsel for the respondents has pointed out that the petitioner was duly examined, initially, at the stage of recruitment and thereafter, at the level of Appeal Medical Board. The Appeal Medical Board had not only evaluated the illness as specified by the Recruitment Medical Board, rather, had even medically examined the petitioner again and even on examination by the Appeal Medical Board, the petitioner was declared medically unfit on a single count instead of two

counts; as was pointed out by the Recruitment Medical Officer. Learned counsel has further submitted that none of the medical specialist is even alleged to be personally against the petitioner. Therefore, being free from any allegations of mala fide, the medical report prepared by the specialist of the Armed Forces have to be relied upon. Qua the submission of the learned counsel for the petitioner that the private hospital had declared the petitioner medically fit, learned counsel for the respondents has submitted that certificate of medical fitness provided by a private hospital is of no relevance in the process of selection for the Air Force. The standards of medical fitness in the Armed Forces are to be adjudged by the medical specialist of the Armed Force. Hence, the petitioner has rightly been declared as medically unfit. Therefore, the petition deserves to be dismissed.

Having heard the learned counsel for the parties, this Court finds substance in the arguments raised by the learned counsel for the respondents. It is not even in dispute that the petitioner was duly examined by the Recruitment Medical Officer and he was declared medically unfit on two counts. Thereafter, as per the rules, the petitioner was entitled to remedy of appeal before the Appeal Medical Board. That remedy also stands actually availed by the petitioner. The record shows that the petitioner has been duly examined even by the Appeal Medical Board and has been found to be medically unfit on the count of Heart Problem. The submission of the learned counsel for the petitioner that the petitioner was not actually medically examined by the Appeal Medical Board is belied by

the very fact that the Appeal Medical Board has not found one of the unfitness pointed out by the Recruiting Medical Officer as sustainable and has held the petitioner to be medically unfit only on one count.

Although, learned counsel for the petitioner had tried to relied upon the report provided by a civil/private medical specialist, however, that report is totally irrelevant. Standards of fitness are to be adjudged as per the requirements of the force. Therefore, the medical specialist of the force are the best judge to assess the medical fitness of a candidate. Moreover, a private or a civil authority is not the competent authority to even grant medical fitness to a candidate with reference to the standards of fitness; as required by the force. The civil/private doctors, at the best, can verify the normal life fitness of a person which may not be necessarily relatable to the specific fitness level as required by the force. Moreover, under the rules, the report of the Appeal Medical Board has been declared as final. This Court cannot sit as a court of appeal over and above the specialist medical opinion given by the Appeal Medical Board of the force.

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

(RAJBIR SEHRAWAT)
JUDGE

02.09.2022
adhikari

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No