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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 28.01.2022***

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W.P.(C) 1656/2022

RISHAV DEV

..... Petitioner

Through Mr.Kumar Bhaskar, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Mr. Rishabh Sahu, Adv.

CORAM:**HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (Oral)**

The petition has been heard by way of video conferencing.

1. The present petition has been filed seeking quashing of the impugned letter dated 31.08.2021 issued by respondent no. 3 whereby the petitioner's request for the conduct of a Review Medical Board (in short, 'RMB') has been rejected. The petitioner further seeks a direction to the respondents to conduct a RMB of the petitioner at the Armed Forces Medical College, Pune and if the petitioner is found fit, allow the petitioner to join the next course of the Indian Air Force (in short, 'IAF') for Aeronautical Engineers or Administrators.



2. It is the case of the petitioner that pursuant to the Notification for the conduct of the Air Force Common Admission Test-02/2020 (hereinafter referred to as the 'AFCAT Notification'), the petitioner applied for the post of Group A, Gazetted Officers of Flying and Ground Duty (Technical/Non-technical branches) of the IAF. Upon clearing both the written test and the Engineering Knowledge Test (in short, 'EKT'), the petitioner was invited to appear for the interview at 3 AFSB, Gandhinagar, Gujarat. The petitioner, having cleared the interview stage as well, was recommended to join the following courses of the IAF:

- i) 209/21T/PC/99AEC/M [Aeronautical Engineer (M)];
- ii) 209/21T/SSC/99AEC/M [Aeronautical Engineer (M)];
- iii) 209/21G/PC/M [Administration]; and
- iv) 209/21G/SCC /M [Administration]

3. The induction of the petitioner to the IAF for the aforementioned courses was subject to the medical examination.

4. The petitioner was directed to appear for a medical examination at the Institute of Aerospace Medicine, IAF, Bengaluru (hereinafter referred to as 'IAM Bengaluru'), where vide the report dated 12.05.2021, the petitioner was declared medically unfit for recruitment to the IAF on the ground of '*substandard colour perception CP-IV*'. Aggrieved by the report of the medical examination, the petitioner applied for the conduct of an Appeal Medical Board (in short, 'AMB').



5. At the AMB stage, the petitioner was examined at the Base Hospital, Delhi Cantt., Air Headquarters, RK Puram, New Delhi (hereinafter referred to as the 'Base Hospital'), wherein he successfully cleared the Ishihara Booklet Test. The doctors at the AMB stage then referred the petitioner for further opinion to the Army Research and Referral Hospital, Dhaula Kuan, New Delhi (hereinafter referred to as 'R&R Hospital'), where the petitioner was made to undergo the Martin Lantern Test to determine colour perception. The petitioner, upon failing the test, was again declared medically unfit on the ground of '*sub-standard colour perception CP-IV*' vide report dated 08.07.2021 and vide letter dated 12.07.2021.

6. The petitioner vide application dated 09.07.2021, applied for an AMB to be conducted at Armed Forces Medical College, Pune, however, the same has been rejected by the respondents vide their impugned communication dated 31.08.2021 without assigning any reason for such rejection.

7. The learned counsel for the petitioner submits that after being declared medically unfit by the IAM, Bengaluru, the petitioner had sought treatment at the Sanjeevan for Perfect Eyesight Hospital, Mumbai for his sub-par colour vision. He submits that after having received treatment, the petitioner sought a second opinion by an ophthalmologist at the Bombay Hospital and Medical Research Centre, Mumbai, where it was reported that the colour vision of the petitioner was 'within normal limits'. The learned counsel for the petitioner places reliance on the medical report dated 14.07.2021 of a



Senior Resident in the Department of Ophthalmology, All India Institute of Medical Sciences, New Delhi, vide which the colour vision of the petitioner was found to be 'within normal limits'. The learned counsel for the petitioner submits that in view of these certificates, the petitioner was entitled to be granted an opportunity of a RMB.

8. The learned counsel for the petitioner further submits that the result of the Martin Lantern Test, which the petitioner was made to undergo at the AMB stage at the R&R Hospital, would not be applicable to determine medical fitness/unfitness of a candidate applying for the Engineering or Administration course. He submits that the Martin Lantern Test is administered only to candidates who are applying to the flying branches of the IAF and not to ground duty branches. He argues that the medical fitness of the petitioner ought to have been determined solely by way of the Ishihara Booklet test, as was done at the Base Hospital and at AIIMS, which the petitioner cleared.

9. We have considered the submissions made by the learned counsel for the petitioner and find no merit in the same.

10. The AFCAT Notification states that the guidelines with regard to the physical and medical standards for candidates are provided in Appendix-A to the AFCAT Notification. Appendix-A to the AFCAT Notification makes note of the requirements that a candidate ought to fulfill with regard to the ophthalmic system. The relevant clause is reproduced hereinbelow:



“22. Ophthalmic System

xxxx

(c) *The visual acuity and colour vision requirements are detailed in Appendix- C to this rule. Those who do not meet these requirements will be rejected.*

(emphasis supplied)

11. The relevant portion of Appendix-C to the AFCAT Notification, which details the visual standards for candidates in the flying as well as the ground duty branch of the IAF, is reproduced hereinbelow:

**“VISUAL STANDARDS FOR AIR FORCE COMMON ADMISSION
ONLINE TEST (AFCAT- 02/2020) FOR FLYING BRANCH AND
GROUND DUTIES (TECHNICAL AND NON-TECHNICAL)/ NCC
SPECIAL ENTRY/METEOROLOGY ENTRY FOR COURSES
COMMENCING IN JULY 2021 CANDIDATES ON ENTRY**

Sl. No.	Branch	Maximum Limits of Refractive Error	Visual Acuity Errors	Colour Vision
1.	F(P) including WSOs	Hypermetropia: + 2.0D Sph Manifest Myopia: Nil Retinoscopic myopia: - 0.5 in any meridian permitted Astigmatism: +/- 0.75D Cyl (within + 2.0D Max)	6/6 in one eye and 6/9 in other, correctable to 6/6 only for Hypermetropia	CP-I
2.	Aircrew other than F(P)	Hypermetropia: +3.5D Sph Myopia: -2.0D Sph Astigmatism: +/- 0.75D Cyl	6/24 in one eye and 6/36 in other, correctable to 6/6 and 6/9	CP-I



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3.	Adm/ Adm (ATC)/ Adm (FC)	Hypermetropia: + 3.5D Sph Myopia: -3.5D Sph Astigmatism: +/- 2.5D Cyl in any meridian	Corrected visual acuity should be 6/9 in each eye	CP-II
4.	AE(M) AE(L)	Hypermetropia: + 3.5 D Sph Myopia: -3.50 D Sph Astigmatism: +/- 2.5D Cyl in any meridian	Corrected visual acuity should be 6/9 in each eye. Wearing of glasses will be compulsory when advised	CP-II
5.	Met	Hypermetropia: + 3.5 D Sph Myopia: -3.50 D Sph Astigmatism: +/- 2.50 D Cyl	Corrected visual acuity should be 6/6 in the better eye and 6/18 in the worse eye. Wearing of Glasses will be compulsory.	CP-II
6.	Accts/Lgs/E dn	Hypermetropia: + 3.5 D Sph Myopia: -3.50 D Sph Astigmatism: +/- 2.50 D Cyl	Corrected visual acuity should be 6/6 in the better eye and 6/18 in the worse eye. Wearing of Glasses will be compulsory.	CP-III



12. A perusal of the abovementioned standards would show that colour vision CP-IV is not acceptable in either the flying branch or ground duties. The learned counsel for the petitioner has also not been able to point out any clause in the AFCAT Notification which states that the Martin Lantern Test is to be conducted only for the flying branches of the IAF and not to ground duty branches. In absence of any such prohibition, the subjection of the petitioner to the Martin Lantern Test cannot be faulted. We must note that on the other hand, Clause 2 of the Medical Standards given as Appendix A to the AFCAT Notification prescribes that “the basic requirements of medical fitness are essentially the same for all branches, except for aircrew in whom the parameters for visual acuity, anthropometry and certain other physical standards are more stringent”. It does not state that different medical tests are also to be applied for determining the medical fitness of the candidates.

13. The reliance of the learned counsel for the petitioner on the certificates from private doctor and/or AIIMS is also of no avail to the petitioner. In ***Km. Priyanka v. Union of India & Ors.***, (judgment dated 21.12.2020 passed in W.P.(C) 10783/2020), this Court has held that the standard of physical fitness for the Armed Forces and the Police Forces is more stringent than for the civilian employment. It was further held that it is the doctors of the Forces who are well aware of the demands of duties and the physical standards required to discharge the same. It further held as under:



“8. We have on several occasions observed that the standard of physical fitness for the Armed Forces and the Police Forces is more stringent than for civilian employment. We have, in *Priti Yadav Vs. Union of India* 2020 SCC OnLine Del 951; *Jonu Tiwari Vs. Union of India* 2020 SCC OnLine Del 855; *Nishant Kumar Vs. Union of India* 2020 SCC OnLine Del 808 and *Sharvan Kumar Rai Vs. Union of India* 2020 SCC OnLine Del 924, held that once no mala fides are attributed and the doctors of the Forces who are well aware of the demands of duties of the Forces in the terrain in which the recruited personnel are required to work, have formed an opinion that a candidate is not medically fit for recruitment, opinion of private or other government doctors to the contrary cannot be accepted inasmuch as the recruited personnel are required to work for the Forces and not for the private doctors or the government hospitals and which medical professionals are unaware of the demands of the duties in the Forces.”

14. As far as denial of RMB is concerned, it is to be noted that RMB is not a matter of right of a candidate but “is at the discretion of the Director General Armed Forces Medical Services after considering the merit of the case”. In the present case, both at the Initial Medical Examination and at the AMB, the petitioner has been found to be suffering from ‘*substandard colour perception CP-IV*’. The AMB has admittedly based its opinion on the finding of the R&R Hospital. In view of the concurrent view of the specialist doctors, the denial of RMB to the petitioner cannot be termed as arbitrary or unreasonable so as to warrant any interference from this court.



15. In view of the above, we find no merit in the present petition, the same is dismissed.

NAVIN CHAWLA, J

MANMOHAN, J

JANUARY 28, 2022/AB

