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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 06.10.2022***+ **W.P.(C) 1759/2021 & CM. APPL. 5068/2021****SACHIN KUMAR** ..... Petitioner

Through: Mr. Nikunj Arora, Advocate

versus

**UNION OF INDIA AND ORS** .... RespondentsThrough: Mr. Manoj Kumar Tyagi, Sr. Panel  
Counsel with Mr. Anirudh Shukla,  
GP**CORAM:****HON'BLE MR. JUSTICE SURESH KUMAR KAIT****HON'BLE MR. JUSTICE SAURABH BANERJEE****J U D G M E N T** (oral)

1. Vide the present petition, the petitioner is seeking quashing of orders dated 07.02.2020 and 21.10.2020 whereby petitioner was declared medically unfit by the respondents; directions to the respondents to allow the petitioner to appear for a fresh medical examination before an independent board set up by the respondents and if found fit, to appoint him as Constable(GD) with all consequential benefits.
2. The case of the respondents is that the petitioner was declared unfit on account of Deviated Nasal Septum (positive) by Medical Board Examination on 06.02.2020 and thereafter, by Review Medical Board on 21.10.2020. Thus, the present petition deserves to be dismissed.
3. Learned counsel for petitioner does not dispute that the petitioner was declared unfit by the Medical Board and subsequently, by Review Medical Board, however, he submits that the petitioner had approached AIIMS on 11.11.2020 and it is reported that the petitioner has Minimal Deviated Nasal Septum.



4. As stated by the learned counsel for petitioner if the petitioner has Minimal Deviated Nasal Septum, he is fit for appointment to the post of Constable (GD) in CAPFs and Assam Rifles.

5. However, without commenting on the aforesaid report and on the merits of the case, as agreed by the petitioner, we hereby direct the respondents to constitute a fresh medical board in RR Hospital, Delhi and schedule the medical examination of petitioner. The date of said examination shall be communicated to the petitioner at least one week before the said medical examination. Report thereof shall be communicated to the petitioner within one week thereafter.

6. It is agreed by the learned counsel for the petitioner, on instructions, the report of fresh medical board shall be final and there shall no challenge to the said report.

7. It is made clear that if the petitioner is found fit by the freshly constituted medical Board, he shall be allowed to join the post in question and the seniority of the petitioner shall be reckoned at the bottom of the batch appointed to the post of Constable (GD) which has already completed training on 30.06.2022.

8. With the aforesaid directions, the present petition and pending application stand disposed of.

**(SURESH KUMAR KAIT)**  
**JUDGE**

**(SAURABH BANERJEE)**  
**JUDGE**

**OCTOBER 06, 2022/rk**