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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 02.06.2022

+ W.P.(C) 8063/2022

DEEWAN SINGH

..... Petitioner

Through: Mr. H.S. Dahiya, Mr. Yuv Dahiya
and Mr. Amit Kumar, Advocates

Versus

UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Ajay Jain, Sr. Panel Counsel

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, petitioner seeks setting aside of the Medical Examination dated 05.08.2021 and the Review Medical Examination dated 11.08.2021; directions to respondents to get the medical examination of his eyes done in the All India Institute of Medical Sciences or Safdarjang Hospital or any other government hospital or special medical board, to recruit the petitioner for the post of Constable in I.T.B.P, in case he is found fit in the medical examination; directions to respondents to reinstate the petitioner in service from the date when the Constables of the batch of the



petitioner in which he had applied with all consequential service and monetary benefits.

2. Learned counsel for the petitioner submits that the petitioner had participated in recruitment process for the post of Constable/ Tradesman 2017 in ITBP and had qualified in written examination held at New Delhi. It is further submitted that physical examination of the petitioner was held at Jabalpur and tradesman test at Jodhpur. Thereafter, the petitioner was called for medical examination at Composite Hospital ITBP, Chandigarh on 04.08.2021 and on 05.08.2021, he was declared unfit for Defective Distance Vision with observation Rt 6/36, Lt 6/12. The medical review board in the medical examination report dated 11.08.2021 also declared the petitioner unfit for the reason “Defective Distant Vision with observation of R 6/36, L6/24”.

3. Case of the petitioner is that the petitioner made representation dated 13.09.2021 to DIG, ITBP submitting that in view of the opinion of the specialist Dr. Vishwas Gupta, Chief Specialist Eyes of Govt., Satellite Hospital, Banipark, Jaipur, the opinion of the Medical Board dated 05.08.2021 and Review Medical Board dated 11.08.2021 be set aside. The representation of the petitioner was rejected vide Letter dated 29.09.2021 by



DIG, Personnel & Administrative, Northern Frontier Headquarter, ITBP on the ground that as per directions of the Ministry of Home Affairs, there was no provision of medical examination after Review Medical Examination. Thereafter, the petitioner visited New Delhi and got himself examined in Rajendra Prasad Eye Centre, AIIMS, New Delhi on 11.11.2021 where the vision of the petitioner was opined as VA 6/6, 6/6. Thus, the present petition.

4. Learned counsel for the petitioner submits that the petitioner may be referred to some independent hospital and his eye be tested again and in case, the petitioner is found fit, he be directed to join further selection process for the post of Constable/ Tradesman 2017 in ITBP.

5. Notice issued.

6. Learned Senior Panel Counsel for respondents accepts notice and submits that there is no provision of medical examination after Review Medical Examination.

7. In view of aforesaid facts as well as in the interest of justice, we hereby dispose of the present writ petition by directing the respondents to facilitate the constitution of a fresh Medical Board at the Army Hospital (R&R), New Delhi for conducting fresh examination of the petitioner within



two weeks from today. If the petitioner is found fit by the aforesaid Medical Board, he may be permitted to join in the further selection process. However, if the petitioner is found unfit by the aforesaid Medical Board, he will not be granted any further opportunity to get examined again.

8. As admitted by learned counsel for the petitioner, it is made clear that the decision of the aforesaid Medical Board shall be final and binding.

9. Copy of this order be transmitted to Incharge, R&R Hospital, New Delhi for information and necessary compliance.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

JUNE 2, 2022/rk