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

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Date of decision: JULY 7, 2022

+ W.P.(C) 10269/2022 & CM APPL. 29631/2022

AYUSH KUMAR (MINOR) THROUGH MOTHER NEETU
BHOLA Petitioner

Through: Mr. Ankur Chhibber and Mr. Nikunj
Arora, Advocates.

versus

UNION OF INDIA AND ORS Respondents

Through: Mr. Jitesh Vikram Srivastava, Sr.
Panel Counsel with Mr. Prajesh
Vikram Srivastava, Advocate with
Major Partho Kayayan.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (oral)

1. Pursuant to notification dated 09.06.2021 issued by U.P.S.C., the petitioner appeared in the written examination and successfully cleared that on 14.11.2021. Thereafter, the petitioner was called upon to report before the 34th SSB, Allahabad for intelligence and personality test.
2. As stated in the present petition, upon being recommended by the SSB, the petitioner was asked to appear for medical examination. Thus, the petitioner appeared for his medical examination before the Medical Board at



Military Hospital, Allahabad wherein petitioner was declared unfit by the Medical Board at the Military Hospital, Allahabad for the ailment of *Growth Hypospadias* and *Soft Pallet (LT)*. Thereafter, the petitioner on 12.04.2022, applied before the Appeal Medical Board wherein, petitioner was examined by Surgeon Brig. Manoj who was not a classified Specialist Surgeon (Urology) and thus not qualified to examine the petitioner, thereafter, on 19.05.2022 as per the report of the AIMS, the petitioner, on the hand was declared fit by the ENT Specialist ruling there being no ailment of *Soft Pallet* while on the other hand was again declared medically unfit for ailment of *Hypospadias* thereafter, the petitioner applied for the Review Medical Board vide letters dated 19.05.2022 and 26.05.2022, thereafter, on 21.05.2022, the petitioner approached the Base Hospital, Delhi Cantt. wherein he was examined by the classified Specialist (Surgery)- Urologist Lt. Col. Gagandeep Singh, who declared the petitioner medically fit. In the meanwhile, after being ascertained by the Base Hospital, New Delhi for having normal functioning of the urethral tract and the urine flow being normal, petitioner approached AIIMS, New Delhi. Upon detailed examination of the present condition vis-a-vis the medical history of the petitioner, the urologist was of the opinion that there was no urethral ailment to the petitioner and the functioning of the urethral tract and urine flow was normal.

3. Further stated, thereafter, the Review Medical Board of the petitioner was conducted by the respondents, wherein the doctors of the board without looking into the conditions of the undersigned and without making any physical tests or investigations, summarily declared the petitioner to be medically unfit for NDA in the review Medical Examination as orally communicated on 21.06.2022.



4. On 24.06.2022, petitioner consulted specialist doctor of Urology & Anthology department of Medanta Hospital, Gurugram wherein a team of specialist doctors examined and came to a conclusion that the case of the petitioner is *Glanular* in nature and that there is no post-surgery ailment as the functioning of the urethral tract and is within normal limits.

5. Though there are many issues reflecting changes from time to time, raised by the petitioner in the present petition and however, at this stage, without going into the controversy, whether the petitioner is unfit or fit, we hereby direct the In-charge, R.R. Hospital to constitute a Medical Board to re-conduct the medical test of the petitioner wherein one of the members shall be the Specialist Surgeon of Urology. Upon its constitution, the said R.R. Hospital shall convey the date of the test to the petitioner in advance, who shall appear before the said Medical Board on the date so fixed. It is made clear that if the petitioner is found medically fit by the Medical Board so constituted, the petitioner shall be allowed to join the selection process and in case, he is declared unfit, no further opportunity shall be granted to him and report of said Medical Board shall be considered final, since, the same have been admitted by the petitioner.

6. With the aforesaid directions, the present petition stands disposed of.

7. Pending application also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

JULY 7, 2022/So