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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 01.02.2022***

+ W.P.(C) 12858/2021

YOGITA YADAV

..... Petitioner

Through

Mr. Ankur Chhibber, Mr. H S
Tiwari, Mr. Anshuman
Mehrotra, Mr. Harsh Dhankar,
Mr. Nikunj Arora, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through

Mr. Sidharth Khatana, Sr. Panel
counsel with Ms. Rupali, Adv.
with Col. (Dr.) Shubodeep
Ghosh and Major Partho.**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.

CM 40480/2021(exemption)

Allowed, subject to all just exceptions.

WP(C) 12858/2021

1. The present petition has been filed seeking setting aside of the order dated 29.10.2021 passed by the respondents whereby the request of the petitioner for the conduct of a Review Medical Board (in short, 'RMB') has been rejected. The petitioner also seeks direction to the



respondents to conduct her RMB at the Army R&R Hospital or any other suitable Government hospital, and if found to be fit, grant her admission in B.Sc. (Nursing) for Military Nurse Service entry as per her merit.

2. It is the case of the petitioner that pursuant to the advertisement inviting applications for admission to the four-year B.Sc. (Nursing) Course at colleges of Nursing of Armed Force Medical Services, the petitioner applied for the same.

3. Upon clearing the computer-based examination as well as the interview, the petitioner was called for her medical examination. The medical standard to be complied with is contained in the 'Manual on Medical Examination and Medical Standards for Various Entries into the Army, TRG Academies and MIL Schools' (hereinafter referred to as the 'Medical Manual').

4. The Medical Board (in short, 'MB') vide its report dated 31.08.2021, declared the petitioner as medically 'Unfit' on three grounds, namely, '*anaemia*', '*uncorrected visual acuity (RE)*' and '*dentally unfit due to traumatic bite*'. Aggrieved by the report of the MB, the petitioner preferred an application for the conduct of an Appeal Medical Board (in short, 'AMB'). At the AMB stage, the petitioner vide report dated 23.09.2021, was declared medically 'fit' for '*anaemia*' and '*traumatic bite*', however, the petitioner was declared medically 'unfit' on the ground of '*uncorrected visual acuity (RE)*'.



5. The petitioner, aggrieved by the decision of the AMB, filed a representation seeking the conduct of her RMB, which was rejected by the respondents on 29.10.2021 on the ground that the request was contrary to the existing policy.

6. The learned counsel for the petitioner places reliance on the certificate of medical fitness issued to the petitioner by the Civil Hospital, Jhajjar, Haryana as well as the All India Institute of Medical Sciences, New Delhi, wherein the petitioner had been found to have a 6/6 vision. He submits that there is also a discrepancy in the report of the MB and the AMB, with the MB recording the uncorrected vision acuity of the petitioner as 6/60(RE) and 6/24(LE), while the AMB recording it as 5/60(RE) and 6/36(LE). He submits that in view of these differing opinions of doctors, conduct of RMB before an independent Board comprising of ophthalmologists should have been allowed.

7. The learned counsel for the petitioner also contended that the medical standard applicable to the petitioner is one prescribed as “Visual Standards for AMC/JAG/EDN/RVC/MNS/ADC/TA/SL entry.” requiring Uncorrected Vision Acuity of 3/60 and 3/60. However, Col.(Dr.) Shubodeep Ghosh, who appeared for the respondents, clarified that the required standard for Student Nurse is prescribed as “AFMC Cadet, Student Nurse & equivalent” in the Medical Manual, with the candidates requiring minimum Uncorrected Vision Acuity of 6/36 and 6/36. The learned counsel for the petitioner did not press this issue any further.



8. As far as the plea for conduct of RMB is concerned, the Medical Manual, which is the repository referred to for admission in the B.Sc. (Nursing) for Military Nurse Service, explicitly mentions that the conduct of a RMB is not a matter of right and is to be granted considering the facts of each case. The relevant portion is reproduced hereinbelow:

“Review Medical Board (RMB)”

22. *When a candidate is declared unfit by the AMB, the result is communicated to him/her by the President of the AMB. The candidate can appeal against the findings of the AMB within 1 day of the same being communicated. The RMB will be granted at the discretion of the DGAFMS, based on the merits of the case. The RMB is not a matter of right. The RMB is held at AH (R&R), Delhi Cantt and at AFMC, Pune. After approval by the DGAFMS the board proceedings are forwarded to the concerned authorities via the respective DGsMS.*

(Emphasis Supplied)

9. In the present case, the MB as also the AMB found the petitioner “Unfit” for admission based on her uncorrected vision acuity of the right eye. Minor discrepancy in the recording is not sufficient to cast any doubt on these reports. As far as the reports from the Civil Hospital, Jhajjar and AIIMS are concerned, this Court, in its judgment dated 21.12.2020, in ***Km. Priyanka vs. Union of India & Ors.***, W.P.(C) 10783 of 2020, 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.”

10. This Court, in its judgment dated 29.11.2021 in **Sandeep vs. Indo Tibetan Border Police Force & Ors.**, W.P. (C) 13456 of 2021, had dismissed the writ petition of a similarly-situated individual who had been declared medically unfit on the ground of ‘defective vision (BE)’ and held that medical opinion can vary from professional to professional, but once the recruitment procedure (in the present case, the Manual) provides for finality and is found to have provided for a review to eliminate the possibility of human error, the finality has to be accepted, unless a case for interference is made out.

11. In the present case, in view of the unanimous report of the MB and the AMB on the unfitness of the petitioner on account of her uncorrected visual acuity, we find no infirmity in the decision of the respondent to deny RMB to the petitioner. RMB is to be resorted to only in exceptional circumstances where there is some glaring inconsistency in the reports of the MB and the AMB or for other such



exceptional reason, for otherwise, the admission/selection process shall remain endless.

12. For the above reasons, the petition is dismissed. There shall be no order as to cost.

NAVIN CHAWLA, J

MANMOHAN, J

FEBRUARY 01, 2022/AB

