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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 15.02.2022

+ W.P.(C) 12923/2021

NISHA

..... Petitioner

Through Mr.Sanjay Rathi, Adv.

versus

UNION OF INDIA, THR. SECRETARY & ANR.

..... Respondents

Through Mr.Anurag Ahluwalia, CGSC
with Mr.Danish Faraz Khan,
Mr.Rishab Narayan, Advs. and
Mr.Akshat Singh, GP.

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 40705/2021 (exemption)

Allowed, subject to all just exceptions.

WP(C) 12923/2021 & CM 40704/2021

1. The present petition has been filed seeking setting aside of the result of the Review Medical Examination (in short, 'RME') dated 28.10.2021, whereby the petitioner was declared to be medically unfit for appointment on the ground of *'flat foot'*.



2. It is the case of the petitioner that she applied for in the ‘Sub-Inspector in Delhi Police, CAPFs and Assistant Sub-Inspector in the CISF Examination, 2019’. The petitioner cleared the Stage-I (that is, Written Examination) as well as the Stage-II (that is, Physical Endurance Test and Physical Standard Test) of the recruitment process. The petitioner, in continuation of the requirements of the recruitment process, appeared for her Detailed Medical Examination (in short, ‘DME’) at the Composite Hospital CRPF, GC Campus, Golf Course Road, Ajmer, Rajasthan on 26.10.2021. The DME declared the petitioner medically unfit on three grounds, namely, ‘*anaemia*’, ‘*knock knee*’ and ‘*flat foot*’.

3. Aggrieved by the decision of the DME, the petitioner applied and appeared for her RME on 28.10.2021, wherein she was declared medically fit on two grounds, namely ‘*anaemia*’ and ‘*knock knee*’, however, was again found to be medically unfit on the ground of ‘*flat foot*’.

4. The learned counsel for the petitioner submits that prior to the conduct of the RME, the respondents referred the petitioner for a medical examination to the Jawahar Lal Nehru Hospital, Ajmer (hereinafter referred to as ‘JLN Hospital’), where she appeared on 27.10.2021. JLN Hospital declared the petitioner to be medically fit, including as not suffering from “*flat foot*”. He further contends that the petitioner had previously applied for the post of Sub-Inspector in the year 2016 and was declared to be medically fit but could not succeed in the examination on merits. The learned counsel for the



petitioner also places reliance on the reports of Dr. Ram Manohar Lohia Hospital, New Delhi and Deen Dayal Upadhyay Hospital, New Delhi, wherein the petitioner has been examined by Orthopedists and declared to be medically fit and as not suffering from '*flat foot*'. He submits that therefore, the report of the RME is liable to be rejected by this court.

5. This Court, by its order dated 17.11.2021, had directed the respondents to produce the original medical records of the petitioner. Perusal of the medical records of the petitioner shows that the JLN Hospital found the petitioner to be not suffering from '*Flat Foot*', however, inspite of the same, the RME states that "*clinically flat foot present*".

6. The learned counsel for the respondents submits that the reports of the JLN Hospital and/or Dr. Ram Manohar Lohia Hospital and/or Deen Dayal Upadhyay Hospital would not be binding on the RME and it is the report of the RME which is paramount.

7. We have considered the submissions made by the learned counsels for both the parties. Though the learned counsel for the respondents may be correct in contending that the reports of JLN Hospital and/or Dr. Ram Manohar Lohia Hospital and/or Deen Dayal Upadhyay Hospital are not binding on the RME, the fact remains that the respondents themselves referred the petitioner to the JLN Hospital for obtaining an opinion on "*flat foot*". The doctor at JLN Hospital opined in favour of the petitioner observing that she was not suffering from "*flat foot*". The reports of Dr. Ram Manohar Lohia Hospital and



Deen Dayal Upadhyay Hospital also state that the petitioner is not suffering from “*flat foot*”.

8. Keeping in view the above peculiar facts, we find this to be a fit case for issuing a direction for the medical re-examination of the petitioner to be conducted at the Army R&R Hospital, New Delhi. For this purpose, the respondent no. 2 shall request the R&R Hospital to constitute an independent board of doctors consisting of specialist Orthopedist and seek an appointment for the petitioner to be examined within a period of one week from today, with prior intimation to the petitioner. The report of the R&R Hospital shall be considered as final, with no party being allowed to challenge the same. The respondent shall act upon the appointment application of the petitioner to the above said post in accordance with the report that is received from the R&R Hospital, within a period of one week from the receipt of the report. The report received from the R&R Hospital shall also be shared with the petitioner.

9. The petition is disposed of with the above directions.

NAVIN CHAWLA, J

MANMOHAN, J

FEBRUARY 15, 2022/AB