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

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Date of decision: October 27, 2022

+ W.P.(C) 14617/2022

NARENDRA KUMAR

..... Petitioner

Through: Ms. Nisha Tiwari, Mr. Vishal Arun
Mishra, Mr. Sadashiv and Ms.
Harshita Nigam, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Vikrant N. Goyal and Mr.
Arinudh Shukla, Advocates.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (oral)

CM APPL. 46078/2022(for early hearing)

1. For the reasons stated in the present application, the same is allowed and the writ petition is taken for hearing today itself.
2. The present application is disposed of.

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3. By way of the present petition, petitioner is seeking the following reliefs:-

*i. Issue order, direction or writ in the nature of certiorari
quashing the impugned cancellation order dated*

25.06.2022 (Annexure No. P-5) whereby candidature of the petitioner for the post of Junior Engineer (Civil) against the Advertisement No. JE-2019 (SSC) for recruitment to the post of Junior Engineer (Civil) in the respondent no. 3 organization has been cancelled on the ground of being medically unfit due to Hypertension.

ii. Issue order, direction or writ in the nature of certiorari quashing the impugned subsequent order dated 26.09.222 (Annexure No. P-10) whereby petitioner has been directed by the respondent no. 3 to appear for re-medical on or before 17.10.2022.

iii. Issue order, direction or writ in the nature of mandamus commanding respondent no. 3 to declare the petitioner to be medically fit for the aforesaid recruitment in pursuance of communication letter dated 24.08.2022 (Annexure No. P-9) of the respondent no. 3 whereby respondent no. 3 has opined to review his decision of declaring the petitioner as medically unfit.

4. The case of the petitioner is that the petitioner appeared in the primary medical examination for the post in question on 21.04.2022 and was declared 'unfit' on the ground of *hypertension*. Thereafter, he appeared on 11.06.2022 for the review medical examination and was again declared 'unfit' for the same reason vide order dated 25.06.2022.

5. Thereafter, the petitioner made a representation dated 14.07.2022 which was rejected by the respondent no.3 vide order dated 06.08.2022.

6. Aggrieved by the said decision, petitioner filed the present petition, when the same was listed before this Court on 17.10.2022, the respondents asked the petitioner to appear for medical examination, however, though the petitioner reported for medical examination on 17.10.2022 but he sought time and was thus directed to again appear on 29.10.2022.

7. Further case of the petitioner is that the digital instrument for measuring BP being used by the respondents is defective and he should be examined by a digital instrument as well as a mercury instrument.
8. We hereby, direct the petitioner to appear before the respondents on 29.10.2022, when the petitioner shall be examined by both digital and mercury instruments.
9. As agreed by the counsel for the petitioner, the report of the said medical examination shall be final and binding upon the parties.
10. It is further made clear that if the petitioner is found medically fit in the said medical examination, the respondents shall allow the petitioner to participate in the further selection process.
11. The present petition is accordingly disposed of.
12. The date already fixed i.e., 10.11.2022 stands cancelled.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

OCTOBER 27, 2022/So