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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 04.02.2022***

+ W.P.(C) 14451/2021 & CMs 45497/2021, 47220-21/2021

VISHNU

..... Petitioner

Through Mr.Jai Bansal, Adv.

versus

STAFF SELECTION COMMISSION & ORS..... Respondents

Through Ms.Nidhi Banga, Sr.Panel
Counsel.

Dr.Amit Bhatnagar, CMO, (SG)

Dr.Anant Kumar, CMO (SG)

Dr.Amiteshwar Prasad, SMO.

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.

1. The present petition has been filed seeking setting aside of the report dated 03.11.2021 of the Review Medical Examination (in short, 'RME') declaring the petitioner to be medically unfit for appointment. The petitioner also seeks a direction to the respondents to conduct his RME again in view of the opinion and report of Dr. Ram Manohar Lohia Hospital, New Delhi (hereinafter referred to as 'Dr. RML Hospital') which found the petitioner fit for appointment, and to further allow him to join as a Sub-Inspector in the Delhi Police.



2. It is the case of the petitioner that pursuant to the advertisement for the 'Delhi Police and Central Armed Police Force in CISF Examinations, 2019', the petitioner had applied for the post of Sub-Inspector in the Delhi Police. Prior to this, the petitioner had served in the Indian Navy as a Commando and Diver for twenty-one years and took voluntary retirement in 2016 due to personal issues.

3. The petitioner had appeared for and cleared Stage-I as well as Stage-II of the recruitment process and was declared provisionally qualified for appearing in the Detailed Medical Examination (in short, 'DME'). The petitioner, however, met with a minor motor accident prior to the conduct of his DME and sustained injuries, including on his right inguinal region.

4. In the DME, vide report dated 27.10.2021, the petitioner was declared to be medically unfit for appointment on two grounds, namely, '*non-healed ulcer (4x4 cm) over below the right inguinal region*' and '*scar over left anterior and distal forearm*'.

5. Aggrieved by the result of the DME, the petitioner applied for his RME. The report of the RME dated 03.11.2021 declared the petitioner to be medically fit on the ground of '*scar over left Distal forearm (split opinion)*', however, the petitioner was again declared medically unfit on the ground of '*non-healed ulcer- (split opinion)*'.



6. The learned counsel for the petitioner submits that the declaration of petitioner being medically unfit was on the basis of a ‘split’ opinion. He submits that owing to the split opinion amongst the doctors conducting the RME, the petitioner ought to be given the benefit of doubt and be re-examined by an independent board of doctors and on the basis of the report, if found fit, be allowed to join the Delhi Police. He also places reliance on the report of Dr. RML Hospital, wherein the doctor after the observation and verification of the test results of the petitioner, had found the ulcer in the right inguinal region to have healed and as not contagious.

7. This Court, vide its order dated 20.01.2022, had directed the learned counsel for the respondents to produce the original medical record of the petitioner on the next date of hearing. The doctors who had medically examined the petitioner during his RME stage were also directed to join the proceedings by way of online video link.

8. In pursuance of the above direction, Dr. Amit Bhatnagar, CMO (SG), Dr. Anant Kumar, CMO (SG) and Dr. Amiteshwar Prasad, SMO, who had conducted the RME of the petitioner, have joined the court proceedings by way of online link.

9. Dr. Bhatnagar submitted that at the RME stage, while the petitioner was declared ‘fit’ on the orthopaedic side, that is, for ‘scar over left anterior and distal forearm’; however, was declared



medically unfit by a specialist surgeon posted at the Base Hospital, ITBP, Tigri for '*non-healed ulcer over below the inguinal region*'.

10. Upon being inquired about the 'split' opinion, it was informed to the Court that there the opinion was unanimous based on the opinion of the specialist surgeon and the confusion has arisen due to wrongly typed report annexed with the petition. We have also perused the photocopy of the RME report annexed with the petition and its purported typed copy also annexed with the petition. The learned counsel for the petitioner fairly admitted that there was an inadvertent typing error in the typed copy of the report annexed with the petition. In this view, the submission of the petitioner that there was a 'split' opinion of doctors examining him at RME, does not hold any merit and is rejected.

11. As far as the reliance on the report of Dr. RML Hospital is concerned, in view of the fact that the petitioner was examined by a specialist surgeon at the stage of the RME who opined that the petitioner was suffering from '*non-healed ulcer over below the inguinal region*', we again find no merit. In the present case, the DME as also the RME have found the petitioner to be medically unfit based on the non-healed ulcer present on his right upper thigh area. It is to be noted that the RME is held merely to ensure that no error has been made at the DME stage in examining the candidate. Once the RME report has confirmed the results of the DME, it is not for this Court to



disregard or doubt these medical reports on the basis of a report from Dr. RML Hospital.

11. This Court, in its judgment dated 01.02.2022, in ***Yogita Yadav vs. Union of India & Ors.*** W.P. (C) 12858 of 2021, had disallowed the writ petition seeking medical re-examination in view of the unanimous report of the Medical Board and Appeal Medical Board declaring the candidate to be medically unfit. It was held that a further review is to be resorted to only in exceptional circumstances, in the event of glaring inconsistencies or for any other exceptional reasons, for otherwise, the recruitment process shall remain endless. In the present case, the reports of both the DME and the RME have found the petitioner to be medically unfit on the same ground, that is, '*non-healed ulcer over below the right inguinal region*'.

12. This Court, in its judgment dated 21.12.2020, in ***Km. Priyanka vs. Union of India & Ors.***, W.P.(C) 10783 of 2020, has also 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 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.”

13. In **Joginder vs. Union of India & Ors.** W.P.(C) 522 of 2021, this Court has held that training and military operations are extremely demanding in terms of the medical fitness of a candidate and a private doctor or a doctor working in a Government hospital may not be in a position to comment on the required medical standards for the Force.

14. In view of the above, we find no merit in the present petition and the same is dismissed. There shall be no order as to cost.

NAVIN CHAWLA, J

MANMOHAN, J

FEBRUARY 04, 2022/AB