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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 11.01.2022*****+ W.P.(C) 14748/2021 & CM 46397/2021****SANNY TOMER****..... Petitioner****Through Mr.Aayushman Aeron, Adv.****versus****UNION OF INDIA & ORS.****..... Respondents****Through Ms.Aakanksha Kaul, Mr.Manek
Singh, Advs.****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. This petition has been filed by the petitioner challenging the result of the Detailed Medical Examination (in short, 'DME') of the petitioner conducted on 21.10.2021 as well as the result of the Review Medical Examination (in short, 'RME') dated 23.10.2021. The petitioner further prays for direction to the respondents to conduct a fresh DME for the petitioner.

2. The petitioner had applied pursuant to the notice inviting applications for the post of 'Sub-Inspector in the Delhi Police, CAPFs and Assistant Sub-Inspector in CISF Examination 2019'. The petitioner, upon clearing the Physical Endurance Test and Physical



Standards Test (PET & PST), was invited for his DME at the Composite Hospital, CRPF, GC Campus Golf Course Road, Ajmer, Rajasthan (hereinafter referred to as 'CH CRPF').

3. It is the case of the petitioner that during the DME conducted on 21.10.2021, he was found unfit on two grounds, which are as follows:

- i) Overweight (3.5 kgs);
- ii) DNS (Lt) Side i.e. Deviated Nasal Septum (Left Side).

4. The learned counsel for the petitioner submits that the DME result did not mention the recorded height and weight of the petitioner while declaring the petitioner to be overweight by 3.5 kg.

5. Aggrieved by the result of the DME, the petitioner applied for his RME which was to be held on 22.10.2021 at CH CRPF. Vide the result of the RME, which was declared on 23.10.2021, the petitioner was found medically fit on the ground of DNS but was still found medically unfit on the ground of being overweight. At the RME stage, the weight of the petitioner was recorded as 74 kg and the height was recorded as 171.5 cm.

6. The learned counsel for the petitioner has placed reliance on the 'Guidelines for Recruitment Medical Examination in CAPF and Assam Rifles' (hereinafter referred to as the 'Guidelines') issued in the year 2015 to submit that a variation of 5 kgs was to be accepted. The learned counsel for the petitioner submits that the declaration of



the petitioner as 'Unfit' is therefore, incorrect and is liable to be set aside.

7. On the other hand, the learned counsel for the respondents submits that the petitioner having been found overweight, has been rightly declared 'Unfit' for appointment.

8. We have considered the submissions made by the learned counsels for the parties. Clause 2(d) of the Guidelines as on May, 2015 *inter-alia* prescribe the following standards for weight:

"2. GENERAL INSTRUCTIONS FOR RECRUITMENT BOARD.

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(d) Measurement of physical standards viz. height, weight, and chest is the responsibility of the Physical Standard Test Board (PST Board) for all categories of candidates i.e GOs, SOs and Ors. Medical officers will not be part of PST board both for Male & Female candidates. Since presence of a female is required at the time of recording of physical standard (PST), a female non medical staff may be associated with PST board. Recruiting medical officer need not record to physical measurements. Recruiting medical officer will mention physical standard in the medical examination form as recorded by the PST board. In borderline cases of overweight, BMI should also be considered to arrive at conclusion and variation of 5Kg +/- from the minimum/maximum limit may be accepted. Similarly while measuring height fraction of cm less than 0.5 will be ignored and 0.5 cm & more will be rounded off to the next higher cm. Standard height weight chart is attached at ANNEXURE-I."

9. A reading of the above clause would show that in borderline cases, the Body Mass Index (in short, 'BMI') of the applicant is to be



considered. The borderline cases are prescribed as being in variance of 5 kg from the maximum or minimum limit. The standard height/weight chart, which has been annexed as Annexure-9 to the writ petition, details the weight range at various heights. The respondent does not deny that the petitioner's weight at the time of RME was not exceeding more than 5 kgs of the maximum weight prescribed for his height and his BMI was also within permissible limit.

10. This Court, in its judgment dated 17.12.2021 in ***Pankaj Kumar v Central Reserve Police Force and Ors.***, W.P.(C) 13134/2021, relying upon Clause 2(d) of the Guidelines, had also reversed the finding of the petitioner therein being deemed medically unfit on the ground of being overweight.

11. In view of Clause 2(d) of the Guidelines, we find that the petitioner could not have been declared medically unfit. Accordingly, the findings of the RME declaring the petitioner as 'Unfit' for appointment, is set aside. The respondents are directed to process the application of the petitioner further, in accordance with law.

12. The petition is disposed of with the above direction. There shall be no order as to cost.

NAVIN CHAWLA, J

MANMOHAN, J

JANUARY 11, 2022/AB