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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 09.02.2022***

+ W.P.(C) 15178/2021 & CM 7113/2022

VINIT

..... Petitioner

Through Mr.O.P.Agarwal, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Mr.D.S.Mahendru, Adv.
Dr.Nilay Jain, is present
through video conference.**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 rectification of medical reports of the Review Medical Examination (in short, 'RME') dated 11.11.2021 by accepting the 'Fitness' Report dated 08.09.2021 given by the CMO of Dr. BSA Hospital, GNCT of Delhi.
2. It is the case of the petitioner that pursuant to the advertisement for appointment to the post of Head Constable (GD) under the sports quota in the Central Industrial Security Force (in short, 'CISF'), the petitioner preferred an application for being considered for the said



post. The petitioner is a national-level wrestler and has participated in several National, State and Zonal-level wrestling competitions.

3. Upon clearing the document-verification process, the petitioner was asked to appear for his Detailed Medical Examination (in short, 'DME') at CISF 5th RB, Ghaziabad, Indirapuram, Shipra Sun City, Uttar Pradesh (hereinafter referred to as 'CISF 5th RB') on 03.09.2021. Vide letter dated 04.09.2021, the petitioner was issued a rejection slip for medically unfit candidates informing the petitioner that he had been declared medically unfit on the ground of '*Defective vision (Rt) eye- 6/9 (Lt. 6/9)*'.

4. The petitioner preferred an appeal against the finding of the DME and underwent his RME at CISF 5th RB and vide the impugned report, the petitioner was found to be unfit on the ground of '*Defective distant vision (Rt) eye- 6/18*'.

5. The learned counsel for the petitioner places reliance on the certificate of medical fitness issued to the petitioner by the CMO, Dr. BSA Hospital, GNCT of Delhi, wherein the petitioner had been found to have a 6/6 vision in both eyes. He submits that there is a discrepancy in the reports of the DME and the RME, with the DME recording the vision of the petitioner as 6/9 (Rt) and 6/9 (Lt), while the RME records the same as 6/18 (Rt), while finding the vision in Left eye to be 6/6. He submits that in view of the inconsistent results of the two medical examinations, an independent board comprising of ophthalmologists should be constituted to re-examine the petitioner



and if found fit, offer recruitment against the notified vacancies in the sports quota.

6. This Court, vide its order dated 03.01.2022, had directed the respondents to produce the medical record of the petitioner before the next date of hearing. The Court had further directed the doctor who had conducted the RME of the petitioner to join the proceedings by way of an online video link on the same date.

7. Dr. Nilay Jain, who was the ophthalmologist and who had conducted the RME of the petitioner, has joined the proceedings by way of an online video link in pursuance of the last order. Dr. Jain explained that the doctor conducting the DME of the petitioner is not a specialist ophthalmologist, while the RME was conducted by an 'Eye Board' constituted by the respondents and consisted of specialist ophthalmologists, including himself. He submits that there can be some minor variation in the findings of the DME and the RME in the present case, however, complete procedure was followed while conducting the RME proceedings for the petitioner.

8. We have considered the submissions made. In the present case, the RME of the petitioner with respect to his eyesight was conducted by a team comprising of three ophthalmologists who found the petitioner to be unfit on the ground of '*Defective distant vision (Rt) eye- 6/18*'. Thus, the reports of the DME and the RME have both found the petitioner to be medically unfit on account of defective vision in his right eye. Minor discrepancy in recording the measure of eyesight is not sufficient to cast any doubts on the veracity of these



reports, especially where the doctor conducting the DME was not an ophthalmologist, while the RME was conducted by three ophthalmologists.

9. As far as the reliance on the report of Dr. BSA Hospital, GNCT of Delhi is concerned, in view of the fact that the petitioner was examined by a team of specialist doctors at the stage of the RME, who opined that the petitioner is suffering from '*Defective distant vision (Rt) eye- 6/18*', we again find no merit. 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 report of the RME confirms the results of the DME, it is not for this Court to disregard or doubt these medical reports on the basis of reports from a civil hospital.

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 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 ***Yogita Yadav vs. Union of India***, W.P.(C) 12858 of 2021, this Court disallowed the writ petition of a candidate seeking medical re-examination in view of the unanimous report of the Medical Board and the Appeal Medical Board declaring the candidate to be medically



unfit on the ground of ‘*uncorrected visual acuity (RE)*’. 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.

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 was 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 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 09, 2022/AB

