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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 3rd January, 2022

+ **W.P.(C) 15179/2021**

AVIN DALAL Petitioner
Through Mr.Piyush Beriwal, Mr.Rahul
Gautam, Mr.Ankit Raj, Advs.
versus

UNION OF INDIA & ORS. Respondents
Through Ms.Sarika Singh, Adv

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA
NAVIN CHAWLA, J. (Oral)

CM No.47820/2021 (Exemption)

Allowed, subject to all just exceptions.

WP(C) 15179/2021 & CM No.47821/2021

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') of the petitioner conducted on 22.10.2021. The petitioner prays for a direction to the respondents to re-conduct the medical examination of the petitioner at any Government or Army Hospital in Delhi.

2. The petitioner had applied pursuant to the Notice inviting applications for 'Sub-Inspector in Delhi Police, CAPFs and Assistant



Sub-Inspector in CISF Examination, 2019’ (hereinafter referred to as the ‘Notice’). It is the case of the petitioner that the petitioner had cleared the SSC-CPO Tier-1 and Tier-2 Examinations as also the Physical Standard Test /Physical Endurance Test (PST/PET). The petitioner was thereafter subjected to a DME on 21.10.2021 at the Ajmer Centre, Rajasthan, wherein his weight was measured on an analog weighing machine and height was not measured, however, was declared unfit on account of being overweight. The petitioner contends that the DME report did not mention relevant particulars like the height and the weight of the petitioner or by how much the petitioner was found to be overweight. The learned counsel for the petitioner submits that this itself shows the arbitrary manner in which the DME was conducted by the respondents.

3. The petitioner further contends that in spite of paragraph 11.7 of the Notice providing a fifteen-day period to the candidate to make an appeal before the Review Medical Board (in short, ‘RMB’), the petitioner was forced to submit his appeal on the very same day on which the DME was conducted. The learned counsel for the petitioner submits that for the said reason, the petitioner could not bring his weight within the permissible limit, thereby being denied an opportunity to be selected.

4. The petitioner further contends that in the RME conducted on 22.10.2021, his weight was checked on a digital weighing machine and height was again not measured. The petitioner was again declared unfit on the ground of being overweight. In the RME report, it was



mentioned that the petitioner's height is 170 cm and weight is 74.5 kg resulting in a Body Mass Index (in short, 'BMI') of 25.07 kg/m². The petitioner contends that the height of the petitioner is in-fact 172 cm, as would be evident from the reports of the Central Government Health Services (in short, 'CGHS'), Kingsway Camp, Delhi and Dr. Ram Manohar Lohia (in short, 'RML') Hospital, New Delhi. He submits that the petitioner had got himself examined at CGHS, Kingsway Camp, where his weight was found to be 72 kg with a BMI of 24.3 kg/m², and at RML Hospital, where his weight was found to be 70 kg with a BMI of 23.7 kg/m², both within the prescribed limits for the selection..

5. The learned counsel for the petitioner submits that by denying the fifteen-day period to the petitioner to make an appeal to the RMB, the respondents denied an opportunity to the petitioner to bring his weight within the prescribed permissible limit thereby acting arbitrarily. He further submits that the height of the petitioner was wrongly taken as 170 cm as against 172 cm and if the same had been correctly measured, the BMI of the petitioner would be 25.01 kg/m², which is at the borderline of permissible BMI for selection (the standard being 25 kg/m²). He submits that therefore, the respondents should be directed to re-conduct the medical examination of the petitioner and if found eligible, appoint the petitioner to the post of Sub-Inspector.

6. We have considered the submissions of the learned counsel for the petitioner, however, find no merit in the same. The purpose of



RMB is to ensure that no mistake has occurred in the DME of the petitioner. The purpose is not to grant time to the candidate to rectify the deficiencies or the ailments because of which he/she has been declared ineligible for their applied post. Therefore, the entire premise of the submissions of the learned counsel for the petitioner that the petitioner should have been granted fifteen days time to apply for an Appeal/RMB is incorrect.

7. As far as the submission of the petitioner that his height is 172 cm, we had inquired from the learned counsel for the petitioner if the petitioner would still not be overweight as per the medical standards prescribed if his height of 172 cm would be considered. The learned counsel for the petitioner responded by stating that though the petitioner would be still overweight, his BMI would be 25.01 kg/m², which would exceed the maximum-permissible BMI of 25 kg/m² but only by 0.1 kg/m². He submits that as this was the last opportunity for the petitioner to apply to the Central Armed Police Forces (hereinafter referred to as 'CAPFs') on account of the petitioner now becoming overage, relaxation should be granted to the petitioner for this nominal deviation.

8. We, however, find no merit in the submissions made by the learned counsel for the petitioner. Though, the 'Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles' (hereinafter referred to as the 'Guidelines') were not annexed with the petition, we had the benefit of pursuing the same in another petition that was listed before us.



9. Clause 2(d) of the Guidelines as on May, 2015 inter-alia prescribes 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.”

10. A reading of the above clause would show that it is only in the borderline cases that the BMI of the applicant is to be considered. The borderline cases are also prescribed as being in the range of +/- 5 kg from the minimum/maximum limit. The standard height/weight chart which has been annexed as Annexure-1 to the Guidelines states that for a height of 172 cm, the weight for a male aged 23 to 27 years is 55.5 kg to 67.5 kg. The weight of the petitioner as recorded in the RME report was 74.5 kg, thereby clearly being in excess of the permissible variation limit of 5 kg.

11. Clause 2(d) and Annexure-1 of the Guidelines state that it is only in doubtful cases of overweight that the assessment is to be made



on the basis of BMI. In the present case, as the petitioner, even with the height of 172 cms, would be over 7kgs above the maximum permissible weight, he could not have availed of the benefit of BMI.

12. Even otherwise, as per the petitioner's own case, with the height of 172 cms., petitioner's BMI would have been 25.01 kg/m², which is also beyond the permissible limited of 25 kg/m². No power of relaxation in this regard has been shown to us. It is not for this Court to prescribe a relaxation in the selection criteria. In fact, it has to be remembered that the recruitment is to the CAPFs which would require stricter physical and medical standards to be achieved by the candidates as they have to perform their duties in the most strenuous and hostile environments and locations.

13. For the above stated reasons, we do not find any merit in the present petition. The same is accordingly dismissed. There shall be no order as to costs.

NAVIN CHAWLA, J

MANMOHAN, J

JANUARY 3, 2022/Arya/AB