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

% ***Date of decision: 25th April, 2022***

+ **W.P.(C) 112/2022**

SANDEEP POSWAL

..... Petitioner

Through: **Mr. K.P. Jayanarayan & Mr. Pulkit Aggarwal, Advocates**

Versus

UNION OF INDIA AND ORS.

..... Respondents

Through: **Mr. Avnish Singh, Senior Central Government Standing Counsel with Head Constable.Surender Singh, Government Pleader**

CORAM:

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN**

JUDGMENT (oral)

1. The present petition has been filed by the petitioner seeking a direction to set aside order dated 04.10.2021 passed by the respondent, vide which his appeal to appear for medical test for appointment to the post of Head Constable pursuant to Notification DAVP 19113/11/0004/1920, has been rejected by the respondents. Further, a direction is sought to the respondent to conduct re-medical examination of petitioner.
2. Learned counsel for petitioner submits that pursuant to aforesaid notification, petitioner had applied for appointment of Head Constable in

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CISF and pursuant thereto, respondent No.2 had issued a call letter calling upon the petitioner to give weight/ height measurements on 18.02.2020. Thereafter, petitioner was instructed to participate in the physical examination on 19.02.2020. Upon being successful, petitioner was again called upon to appear for medical test on 03.09.2021 and he appeared for the same. However, on 04.09.2021, petitioner came to know that his candidature for the post in question was rejected by the Medical Board due to reasons stated as “Obesity”. Aggrieved against the aforesaid rejection, petitioner is stated to preferred an appeal in the prescribed form before the competent authority, which was rejected vide communication dated 04.10.2021.

3. Learned counsel appearing on behalf of petitioner submits that the appeal of the petitioner has been rejected because the ‘RME appeal was not signed by him and the requisite demand draft was not attached’, however, the demand draft was attached to the appeal and even if there was negligence on petitioner’s part, he should have been given to him to sign the same, which was declined despite several requests.

4. To the contrary, learned counsel appearing on behalf of respondents submits that signing of appeal by appellant and enclosing of requisite fee by way of demand draft were mandatory requirements and, there is no fault in the order passed by the respondent.

5. The relevant Paras-3 and 5 of the impugned communication dated 04.10.2021 read as under:-

“03. Whereas, the appeal for RME is unsigned. Also the required demand draft of Rs.25/-in favour of AC/ DDO 5th RB Ghaziabad is not enclosed together with the appeal.



04. XXXX

05. *Hence, your appeal for Review Medical Examination is considered and rejected due to the reasons mentioned in para No.03.”*

6. Pertinently, rejection of petitioner’s candidature for the aforementioned reasons is not disputed by learned counsel for respondents.

7. Upon hearing and on perusal of Paras-3 and 5 of the impugned communication dated 04.10.2021, we find that the appeal of petitioner has not been decided on merits and has rather been dismissed for afore-noted reasons. We hereby set aside the impugned communication dated 04.10.2021 and dispose of the present petition giving liberty to the petitioner to prefer a fresh appeal before the competent authority within two weeks, which shall be considered and decided by the respondents as per applicable rules and regulations within the statutory period. The fate of the appeal be communicated to the appellant within two weeks of decisions thereon. Needless to say, if any grievance still persists, petitioner is at liberty to challenge it before the appropriate forum.

8. The present petition is accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SUDHIR KUMAR JAIN)
JUDGE

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