

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3987 OF 2023

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Saurabh Nagnath Pawar

.....Petitioner

V/s.

The Union of India & Ors.

.....Respondents

Mr. K. S. Shukla a/w Aditya Ajgaonkar, Vishal Balwadkar & Shipraa
Tanna i/by K. S. Shukla & Associates, for the Petitioner.

Mr. Rui Rodrigues a/w Ashutosh Misra, for the Respondents.

**CORAM : S.V. GANGAPURWALA, ACTING CJ &
SANDEEP V. MARNE, J.**

DATE : 18th APRIL, 2023.

PC. :

1. The petitioner had applied for the post of Short Service Commission Officer. The petitioner is held ineligible in the medical test. The petitioner is hypertensive. The petitioner had also availed the remedy of appeal. The same is dismissed.

2. The petitioner submits that he had made proposal for the review by the Review Medical Board. The same is rejected.

3. We have heard learned counsel for the petitioner and the respondents.

4. Mr. Rui Rodrigues, learned advocate for the respondents submits that the petitioner's blood pressure was recorded. The

detailed procedure was followed as is laid down under the norms. The remedy before the Review Medical Board is not a matter of right. Considering the particular matter, the decision is taken whether to allow the candidate to invoke the remedy before the Review Medical Board. The said remedy cannot be availed as a matter of course.

5. It is the contention of the respondents that the examination of the blood pressure was carried out as per the well set out norms, which according to the respondents are as under :-

“(d) Examination of Blood Pressure (BP). Proper technique is necessary to obtain accurate measurement of BP. The measurement should be performed when the individual is relaxed. It is emphasized that Korotkoff phase I will be recorded as systolic BP and Korotikoff phase V will be recorded as diastolic BP. To eliminate silent gap artifact, every BP recording must start by palpation method to measure systolic BP and the cuff pressure should be raised 30 mm of Hg above that while recording by auscultatory method. The individual should be sitting or lying comfortably at the time of recording of BP. Recording should be done after allowing the individual to relax. Two readings about 5 minutes apart should be taken and the lower of the two recorded Candidates with BP consistently greater than 140/90 mm Hg will be rejected.”

6. As per the affidavit filed by the respondents, petitioner's blood pressure recording during SMB was 144/94 mm Hg and during AMB his recording was 166/95, 155/84 & 150/102. Also the 24 Ambulatory BP record which is a gold standard for test for ruling out hypertension also showed abnormal BP record.

7. It appears that the remedy before the Review Medical Board is not a matter of right, as the same has to be granted at the discretion of DGAFMS. If no ground exists for review, the respondents would be justified in rejecting the prayer of a candidate for Review Medical Board.

8. In the present case, the petitioner has produced the certificate issued by the Command Hospital (SC), Pune. The Command Hospital (SC), Pune is of the Indian Army. In the investigation, the BP of the petitioner is recorded 126/80. The petitioner has also got his BP checked from two private hospitals and according to the petitioner, the same is also normal.

9. We certainly would not rely upon the reports of private hospitals. However, the report of the defence hospital i.e. Command Hospital (SC), Pune records that the BP of the petitioner 126/80. BP 150/102 would be normal range as per the norms of the respondents. It is only after candidates with BP consistently greater than 140/90, then candidature can be reviewed on the ground of hypertension.

10. In view of the contrary certificate issued by the Command Hospital (SC), Pune recording the BP of the petitioner 126/80, we feel it appropriate to eradicate any suspicion in the mind of the

litigant. The BP of the petitioner therefore deserves to be re-recorded by the Review Medical Board.

11. The petitioner shall appear before the Review Medical Board on 24th April, 2023. Thereafter the Review Medical Board may conduct the test of the petitioner for hypertension as per its convenience. Upon decision taken by the Review Medical Board, parties may take further steps accordingly.

12. The writ petition is disposed of.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)