

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

121+249

CWP-2382-2023 (O&M)

Date of Decision : 23.08.2023

Rudervesh

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Ram Pal Verma, Advocate
for the petitioner.

Mr.Sunil Kumar Sharma, Advocate
for the respondent-UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Medical Unfit Certificates dated 14.01.2020 (Annexure P/4) and 18.02.2020 (Annexure P/5) whereby he has been declared unfit on account of Keloid over right forearm.

2. The petitioner pursuant to advertisement applied for the post of Airmen in Indian Air Force. The petitioner cleared written examination and was issued admit card for physical test which was held on 02.12.2019. The petitioner qualified written as well as physical exam, however, his candidature came to be rejected on the medical ground. In the medical test, it was found that petitioner is unfit on account of sub standard weight and Keloid over right forearm. The petitioner applied for Appeal Medical Board. The petitioner came to be examined by Appeal Medical Board

which also declared the petitioner unfit for job.

3. Mr. Ram Pal Verma, Advocate *inter alia* contends that Keloid is not a serious disease and the petitioner may be considered for the post.

4. Mr. Sharma, Advocate pointing out its reply submitted that as per 'Manual of Medical Examination and Medical Board' issued by Chief of the Air Staff, a candidate having Keloid is unfit for the job.

5. I have heard the arguments and perused the record.

6. The petitioner has been twice examined and it is undisputed fact that petitioner is having Keloid over his right forearm. It is also undisputed fact that the respondent in its manual of medical examination has clearly notified that a candidate having Keloid would be unfit for job.

7. A Division Bench of this Court while adverting with a similar issue in LPA No.871 of 2022 (O&M) titled as 'Sumit Vs. Union of India' decided on 24.04.2023 has held that once the medical experts have examined and re-examined the appellant, this Court is not required to sit over the same and adjudicate upon the correctness of the opinion (s) expressed by the Medical Experts especially when this Court does not have expertise to decide as to whether the opinion (s) of the expert are right or wrong. The relevant extracts of the judgment reads as :

“Having heard learned counsel for the parties, we are of the considered view that in the facts and circumstances of the case, no illegality or infirmity can be found in the impugned order passed by the learned Single Judge. The appellant has been examined twice firstly by the Recruitment Medical Board and thereafter by the Appeal Medical Board which has also obtained opinion from the Command Hospital, Eastern

Command, Kolkata and thereafter taken a decision in the matter. All medical experts have found the blood pressure and other parameters not to be in consonance with those prescribed. We are also in agreement with the opinion expressed by the learned Single Judge to the effect that once the medical experts have examined and reexamined the appellant's case thoroughly, this Court is not required to sit over the same and adjudicate upon the correctness of the opinion(s) expressed by the Medical Experts especially when this Court does not have the expertise to decide as to whether the opinion(s) of the Medical Experts are right or wrong. The process of medical examination cannot be converted into an endless process and therefore, finality to the opinion of the Appellate Medical Board has rightly been prescribed. As far as the reliance placed by learned counsel for the appellant on the order passed by this Court in Letters Patent Appeal No. 635 of 2018 is concerned, it is evident that the said appeal was decided on the conjoint consensus statement made by the parties and therefore, it was an order passed on the basis of the consent given by the parties and does not form any binding precedent. In that case as the matter had been allowed by the learned Single Judge taking into account the medical reports of an hospital, which was not part of the medical set up of the respondents, and inspite of the negative reports being given by the Recruitment Medical Board as well as the Appeal Medical Board and therefore, the Union of India had made a statement that they will get further examination

done from the Army Hospital (Research & Referral) New Delhi, a defence hospital and not a private one, to which the appellant therein had agreed and on the basis of the statements made by the parties with consent, the appeal was disposed of. In such circumstances, the reliance placed by learned counsel for the appellant on the order passed in LPA No. 635 of 2018 is misconceived. In the instant case, there is concurrent opinion given by the Medical Experts of the Recruitment Medical Board as well as the Appeal Medical Board that the appellant is unfit for appointment in Indian Air Force.”

8. In the case in hand, the petitioner is unable to controvert findings of the detailed medical examination and Appeal Medical Board. The case of the petitioner is squarely covered by aforesaid judgment and Manual of Medical Board. This Court does not find any ground to form opinion contrary to opinion of Medical Board as well as Appeal Medical Board. The present petition sans merit and deserves to be dismissed and accordingly dismissed.

9. Pending applications, if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

23.08.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No