

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

CWP-3845-2020

Date of decision : 15.03.2023

Rinku

...Petitioner

Vs.

Union of India and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. S.S.Duhan, Advocate for the petitioner.

Mr. Vipul Aggarwal, Sr.Panel Counsel
for respondents-Union of India.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to conduct his medical examination, who had passed the first as well as second stage computerized based test conducted by Railway Recruitment Boards for the post of Junior Engineer/Carriage and Wagon (Mechanical). As a consequential relief, petitioner has also prayed for a direction for placing him in the provisional/final panel for selection and appointment in case, he is found medically fit upon medical examination.

Learned counsel submits that the Railway Recruitment Boards published advertisement bearing No.03/2018 (Annexure P-1) inviting online applications from eligible candidates to fill up various posts of Junior Engineer (JE), Junior Engineer (Information Technology), JE (IT), Depot Material Superintendent (DMS) and Chemical and Metallurgical Assistant (CMA) and pursuant to this, the petitioner had applied for the post of Junior Engineer/Carriage and Wagon through application (Annexure P-2) and

thereafter, he appeared in the written test on 31.05.2019 for the first stage with Roll No.173817164281178 followed by second stage examination conducted on 19.09.2019. According to the learned counsel, after the second stage examination, petitioner's name figured in the list of short listed candidates, who was called on 10.12.2019 for document verification and medical examination vide communication dated 06.11.2019. Learned counsel submits that after verification of the documents, he was called for medical examination on the next day i.e.11.12.2019, but on the said date, he could not appear because of his sickness, and in this regard learned counsel has drawn the attention of the Court to the medical prescription dated 11.12.2019 (Annexure P-18) issued by Modi Nursing Home, Delhi. He submits that the petitioner sent representation dated 26.12.2019 requesting the Railway Recruitment Board to conduct his medical examination. He submits that as per the procedure, in case the candidate fails to appear in medical examination, he can avail his right to prefer an appeal, therefore, on the same principle, the respondents be directed to conduct his medical examination. He prays that the writ petition be allowed and the necessary directions be issued to the respondents.

Upon hearing learned counsel and considering the submissions, this Court finds that admittedly the petitioner had appeared for document verification on 10.12.2019 and on the same day, he was informed that his medical examination shall be conducted on the next day, but at the time of medical examination, neither petitioner appeared nor sent any intimation to the respondents for postponing his medical examination. Thus, the argument that the candidate has remedy of availing reconsideration of medical test in case the report is adverse would not be applicable to his case. Apart from it, even the

said right is not absolute as the limited scope of re-examination is only in case the first report contains possibility of error of judgment by the examining medical authority. As per Chapter V Medical Examination, which is part of the advertisement in the form of a note below the clause relating to Medical Standards for the Posts, such a request must be forwarded within a period of month along with the evidence. Concededly, this circumstance is not available to the petitioner. Though according to the learned counsel, petitioner suffered vomiting and diarrhea, therefore, he was prohibited by sufficient reasons to appear for medical examination, but it does not appeal to prudence that he made the representation on 26.12.2019 i.e. after more than two weeks and in between there is nothing to indicate that he was suffering from the said illness. During the course of hearing, it is also not disputed by learned counsel that the selection process is complete and posts have already been filled up.

Resultantly, in view of the above discussion, this Court is not inclined to exercise the extraordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

(MANOJ BAJAJ)
JUDGE

15.03.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No