

CWP No. 10998 of 2022(O&M) -1- 2023:PHHC:086841

In the High Court of Punjab and Haryana at Chandigarh

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**CWP No. 10998 of 2022(O&M)
Date of Decision: 12.07.2023**

Jatinder Singh

---Petitioner

versus

Union of India and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. R.D.Bawa, Advocate and
Mr. Samuel Gill, Advocate and
Mr. Dipanshu Kapur, Advocate
for the petitioner

Mr. Shivoy Dhir, Senior Panel Counsel
for Union of India

JAGMOHAN BANSAL, J. (ORAL)

CM Nos. 18529 and 18531 of 2022

Allowed as prayed for.

Reply by way of affidavit of respondents is taken on
record. Registry is directed to tag the same at an appropriate place.

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1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of order dated 30.03.2022 (Annexure P-4) whereby petitioner was declared medically unfit for appointment to the post of DVR MT (OG) to which the petitioner was provisionally selected on the ground of compassionate.

2. Father of the petitioner was appointed in GREF on 28.08.1982 who passed away while in service on 10.08.2012. The family of the deceased was paid a sum of Rs. 17.85 lakh towards retiral/pensionary/death benefits. In terms of compassionate appointment policy of the respondent, the petitioner applied. The application of the petitioner from time to time was kept in abeyance on account of low merit. Every time, the petitioner was asked to file a fresh application. The petitioner acquired heavy motor vehicle licence and respondent considering the vacancy of year 2019 vide letter dated 16.12.2021 directed the petitioner to report at GREF Centre at Pune on 24.01.2022. The preliminary medical examination of the petitioner was carried out on 28.01.2022 by Medical Board of Officers consisting of two Medical officers. The petitioner was declared medically unfit due to 'Umbilical Hernia'. The petitioner was directed to report at GREF Centre on or before 24.03.2022 for medical review. The medical review was carried out at MH Kerkee on 24.03.2022 by Medical Board of Officers consisting of GD Spl. (Surgery) and OIC Rtg. The Medical Board declared him medically unfit due to Umbilical Hernia. The candidature of the petitioner was cancelled and for the said purpose, respondent made communication dated 30.03.2022 (Annexure P-2) which was followed by order dated 19.04.2022.

3. Learned counsel for the petitioner inter alia contends that petitioner was suffering from Umbalical Hernia which falls within purview of 'curable defect'. As per medical standards prescribed by

Commandant GREF Centre, Pune, there are various grounds for permanent and temporary rejection. Hernia falls within grounds for temporary rejection.

4. The relevant extracts of Annexure-1 to letter dated 16.12.2021 (Annexure-P-2) read as:-

“Grounds for Temporary Rejection:

9. Following are the grounds for temporary rejection:

(a) to (k)

(l) Hydrocele, Hernia, vericocele.

(n) to (s).....”

5. The petitioner was suffering from Umbilical Hernia and got operated on 04.02.2022 i.e. Prior to examination by Review Medical Board. The Review Medical Board has not considered the fact that petitioner has already got operated Hernia, thus, respondent was bound to consider case of the petitioner for appointment as driver.

6. Mr. Shivoy Dhir, Senior Panel counsel for the Union of India failed to controvert the fact that case of petitioner is covered by grounds for temporary rejection

7. The petitioner needs to be re-examined considering the factum that petitioner has already undergone surgery. He is no more patient of Hernia and his case falls within grounds for temporary rejection.

8. The petition stands disposed of with direction to respondents to re-consider case of petitioner noticing its medical

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standards prescribed vide letter dated 16.12.2021 (Annexure P-2)
especially paragraph 9 of Annexure 1 enclosed therewith.

**(JAGMOHAN BANSAL)
JUDGE**

12.07.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No