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

CWP No.13020 of 2019 (O&M)

Date of Decision: 31.01.2023

JONI KUMAR

.....Petitioner

Vs

STATE OF HARYANA AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. M.S. Virk, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of mandamus, directing the respondents to constitute a Board of Doctors at PGI, Chandigarh to medically examine the petitioner in order to ascertain whether the petitioner is medically fit for joining the Haryana Police or not.

[2]. The aforesaid prayer has been made particularly in view of the fact that contradictory reports have come on record. The Deputy Civil Surgeon (Medical) Faridabad and PGIMS Rohak have earlier declared the petitioner to be unfit, whereas two private Hospitals as well as the Deputy Civil Surgeon, Faridabad made contrary reports to the aforesaid reports

thereby finding the petitioner to be fit.

[3]. Notice of motion was issued on 16.05.2019 by passing the following order:-

“Petitioner has participated in the selection process for the post of Constable (Male) under the BC-A category. As per final result (Annexure P-1), petitioner has secured 67.25 marks. Last candidate selected under the BC-A category has secured 58.2 marks. However, candidature of the petitioner has been rejected on the ground that as per medical certificate (Annexure P-2), he is suffering bilateral knock knee and is ortho clinically unfit. Learned counsel for the petitioner contends that thereafter, the petitioner again got himself medically examined by the Deputy Civil Surgeon, Medical, Faridabad and as per certificate/report dated 07.03.2019 (Annexure P-8), he is not suffering from any ortho disease. Even, as per certificate dated 25.12.2017 (Annexure P-7) issued by Dr. Vikas Dhingra, MBBS D-Ortho DNB-I of Saumya Nursing Home, petitioner is fit to join the Haryana Police.

Notice of motion.

On the asking of the Court, Kiran Pal Singh, AAG, Haryana, accepts notice on behalf of the respondent-State and seeks time to get instructions.

Copy of this petition be supplied to learned State counsel during the course of the day.

Adjourned to 06.09.2019.

In the meantime, petitioner will approach respondent No.6-PGIMER, Chandigarh and get himself medically examined in the Orthopaedic Department with regard to the aforesaid disease. Medical report, in this regard, be produced on or before the next date of

hearing.

*16.05.2019
ajp”*

**(RITU BAHRI)
JUDGE**

[4]. Evidently, the petitioner has already participated in the selection process for the post of Constable (Male) under the BC-A category. The petitioner has secured 67.25 marks in the final result. The last selected candidate under BC-A category has scored 58.2 marks however, the candidature of the petitioner has been rejected solely on the basis of his medical certificate showing him to be unfit for service as he is suffering from bilateral knock knee and is orthopadically unfit.

[5]. The petitioner got himself medically examined by the Deputy Civil Surgeon, Faridabad and as per the medical report, he is not suffering from any ortho disease. Even in the report of one private Hospital namely Saumya Nursing Home, the petitioner is declared fit to join the Haryana Police.

[6]. Vide the aforesaid order dated 16.05.2019, the petitioner was directed to approach the respondent No.6 i.e. PGIMER, Chandigarh to get himself medically examined in the Orthopaedic Department with regard to his disease.

[7]. In compliance of the aforesaid order, the petitioner has been medically examined by the Board of Doctors. According to Medical Board, the meeting of the Medical Board was held on 13.06.2019 in the office of the Chairperson. The petitioner was

clinically and radiologically examined and after the detailed examination, the Board found him to be fit having no Genu Valgum.

[8]. Thereafter it appears that the petitioner was again examined in the PGIMS Rohtak and the petitioner was found unfit having the issue of knock knee.

[9]. Vide order dated 06.07.2022, it has been observed that the respondent-State has decided to constitute the Board on its own volition without apprising the Court of the same, specially in view of the fact that the competent doctors of PGI have already given a definite opinion that the petitioner is not knocked knee.

[10]. Thereafter the affidavit filed by the Inspector General of Police, Administration was found to be not in consonance with the directions of the Court and fresh affidavit was directed to be filed vide order dated 22.08.2022.

[11]. In view of fresh affidavit filed, stand has been taken that in view of conflicting medical reports of the petitioner, it was thought appropriate to get the petitioner examined afresh from the PGIMS Rohtak.

[12]. Having considered the submissions made by learned counsel for the parties, I am of the opinion that vide order dated 16.05.2019, the Medical Board of the PGIMER, Chandigarh was obligated to examine the petitioner and infact the Medical Board of the PGIMER, Chandigarh has already examined the

petitioner and found him to be medically fit. Thereafter there was no occasion for the respondent-Department to seek composition any further medical board for any further medical opinion qua the petitioner.

[13]. The aforesaid exercise is without the leave of the Court. Once this Court is already seized of the matter and has also directed the petitioner to appear before the respondent No.6/PGIMER, Chandigarh then there cannot be any occasion for the respondents to seek further opinion from some different Board. The action on behalf of the respondents is unsustainable in law in view of the report of the Medical Board of the PGIMER Chandigarh. The petitioner is declared fit to be appointed on the post in question.

[13]. With the aforesaid observation, this writ petition is disposed. Normal consequences to follow.

(RAJ MOHAN SINGH)
JUDGE

January 31, 2023

Atik

Whether speaking/reasoned Yes/No

Whether reportable Yes/No