

259 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13573-2023

Date of Decision:12.07.2023

ABHAY SINGH

..... Petitioner

Versus

UNION OF INDIA AND ORS.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. S.K. Malik, Advocate
for the petitioner.

Mr. Vipul Aggarwal, Senior Panel Counsel
for respondent -UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking quashing of order dated 05.04.2023 (Annexure P-2) whereby petitioner has been declared medically unfit and order dated 24.05.2023 (Annexure P-4) whereby appeal of the petitioner seeking Review Medical Board has been rejected.

2. Learned counsel for the petitioner *inter alia* contends that petitioner participated in the recruitment process conducted by respondents. The petitioner secured 315 rank in the merit list. The petitioner appeared before Special Medical Board which declared the petitioner medically unfit on four counts and the petitioner requested for re-examination. The request of the petitioner was allowed and petitioner was referred to Appeal Medical Board at Command Hospital (WC) Chandimandir, Panchkula. The Appeal Medical Board at Chandimandir found him unfit *qua* one disability i.e. Corneal degeneration. The

petitioner submitted appeal for Review Medical Board which came to be rejected vide order dated 24.05.2023. The appeal of the petitioner has been rejected without assigning any reason.

3. Learned counsel for the respondents submits that opinion of appeal Medical Board and original Medical Board *qua* one disability is consistent, thus, petitioner cannot be examined by Review Medical Board.

4. From the perusal of certificate dated 05.04.2023 whereby petitioner was declared unfit by Appeal Medical Board, it is evident that petitioner was informed about procedure for seeking a review against decision of Appellate Medical Board. The petitioner sought for Review Medical Board which has been declined. The respondent has not assigned any reason for rejection except that opinion of appellate Medical Board was same as of Medical Board.

5. This Court has recently come across case of another candidate who was also initially denied permission for Review Medical Board, however, during the pendency of petition, Review Medical Board examined the said petitioner and he was found fit. In the said case also, the defect was in the vision of the candidate. This Court vide order dated 05.07.2023 has disposed of CWP No.9536 of 2023 as petitioner therein was subjected to examination by Review Medical Board. The order dated 05.07.2023 passed in said case reads as:

“1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of order dated 06.04.2023 (Annexure P-14) and order dated 31.01.2023 whereby the petitioner has been declared medically unfit for selection in NDA.

2. *The petitioner was declared unfit for appointment on the medical grounds by Medical Board and he preferred an appeal and Appellate Medical Board also found him unfit for the job. The petitioner made further prayer for Review Medical Board*
3. *Learned counsel for the respondents submits that request of the petitioner for examination by Review Medical Board was acceded to and he was subjected to medical examination by Review Medical Board which has found the petitioner fit for the job. The petitioner has joined the force, thus, the present petition has rendered infructuous.*
4. *In view of statement of learned counsel for the respondents, the present petition is disposed of as having been rendered infructuous.”*

6. On being confronted with aforesaid order as well as factual position, learned counsel for the respondents submits that petition may be disposed of considering that admissions are going on.
7. Considering the certificate dated 05.04.2023 issued by appeal Medical Board, impugned order and order of this Court dated 05.07.2023 passed in CWP No.9536 of 2023, the present petition stands disposed of with a direction to respondents to medically examine the petitioner by Review Medical Board within 10 days from today.

(JAGMOHAN BANSAL)
JUDGE

12.07.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No