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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15281-2023

Date of Decision:20.07.2023

SANJIV KUMAR RAI

..... Petitioner

Versus

UNION OF INDIA AND ORS.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. H.P.S. Rakhra, Advocate
for the petitioner.

Mr. Himanshu Malik, Advocate
for respondents No.1 and 2.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of Medical Examination Certificate dated 23.06.2023 (Annexure P-6) and 24.06.2023 (Annexure P-7) whereby petitioner has been declared unfit on account of defect in colour vision.

2. The case of the petitioner is that petitioner joined Indian Air Force as an Airman on 18.03.1996 and was relieved from service on 31.03.2016. At the time of joining Air Force, he was subjected to medical examination and no infirmity was found in his medical condition. While he was relieved from service, no infirmity was found in his health. The petitioner has achieved proficiency in MT driving, whether civil driving licence or badge and has been considered fit to drive Heavy Vehicle, Light Vehicle, Motor Cycle as per Serial No.32 of discharge book. No

battle wound disability was found as per his discharge record.

3. The petitioner applied for the post of Sub-Inspector in Delhi Police and Central Armed Police Force for which examination was held in 2022. The petitioner cleared written test and thereafter physical endurance test. The petitioner was subjected to medical examination wherein he was declared medically unfit. The Review Medical Board has also declared him medically unfit.

4. Learned counsel for the petitioner *inter alia* contends that petitioner is having 6x6 vision and alleged infirmity does not come in his way to discharge duties. The petitioner is physically and mentally fit for the job. He has no vision problem.

5. Mr. Himanshu Malik, Advocate who on advance notice is present in Court submits that petitioner was subjected to medical examination by Medical Board as well as Review Medical Board and defect was found in his colour vision accordingly his candidature was rejected.

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

7. A Division Bench of this Court while adverting with 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 re-examined 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. The case of the petitioner is squarely covered by aforesaid judgment. There is no reason to form any opinion contrary to the opinion of Division Bench of this Court. In view of judgment of this Court in **‘Sumit Vs. Union of India’**, the present petition sans merit and deserves to be dismissed. Accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

20.07.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No