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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20993-2021 (O&M)
Date of Decision:20.07.2023

ASHISH

..... Petitioner

Versus

UNION OF INDIA AND ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Varun Gupta, Advocate for the petitioner.

Mr. Parvesh K. Saini, Advocate for the respondent- UOI.

JAGMOHAN BANSAL, J. (Oral)

CM-8726-CWP-2023

Allowed as prayed for.

CM-8727-CWP-2023

Application for placing on record counter affidavit alongwith Annexures P-5 & P-6, is allowed, in view of the averments made in the application. Said documents are taken on record. Office to append the same at appropriate place.

CM stands disposed of.

CWP-20993-2021

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking direction to respondent to get the petitioner medically examined from Review Medical Board.
2. The brief facts of the case which are necessary for the adjudication of present petition are that the respondent invited application for the post of Navik (General Duty). The petitioner like other aspirants

applied for the post. The selection process have four stages i.e written examination, physical test, medical exam and document verification. The petitioner appeared for written examination on 20.03.2021 and cleared first stage. The petitioner cleared second stage of physical test at Maharashtra on 30.06.2021. The petitioner on 10.09.2021 was subjected to medical examination where he was declared unfit on the ground that he is suffering from “Acne Vulgaris”. The petitioner applied for Review Medical Board. The Review Medical Board also declared the petitioner unfit for the job.

3. Learned counsel for the respondent *inter alia* contends that petitioner approached Review Medical Board at INHS Kalyani, Visakhapatnam on 01.10.2021. The Review Medical Board only took his photographs and he was not subjected to any medical test. The petitioner got himself examined from Base Hospital, Delhi Cantt. where Medical Officer declared that he is not suffering from Acne Vulgaris (Annexure P-7). The petitioner was not subjected to physical examination by Review Medical Board, thus, petitioner has been wrongly rejected on the ground of medical fitness.

4. Learned counsel for the respondent *inter alia* contends that on verification of certificate allegedly issued by Base Hospital, Delhi, it has been found that petitioner was never examined at Base Hospital, Delhi. The certificate submitted by petitioner is a forged document. The selection process is already completed. The Review Medical Board has actually examined the petitioner and petitioner is wrongly disputing the fact.

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

6. From the perusal of documents and arguments of both sides, it comes out that case of the petitioner is that he was not subjected to medical examination by Review Medical Board and report was prepared only on the basis of photographs and he has got himself examined from Base Hospital, Delhi which has found medically fit whereas case of the respondent is that certificate issued by Base Hospital, Delhi is a forged document and petitioner was actually subjected to medical examination by Review Medical Board.

7. As per petitioner, he was subjected to medical examination by Base Hospital, Delhi whereas as per reply, it is a forged document and he was never examined by Base Hospital, Delhi. As per petitioner, he was not examined by Review Medical Board whereas as per respondent, he was subjected to medical examination and report was duly prepared by two senior doctors. The selection process has already completed.

8. This Court cannot return finding *qua* validity of documents because these are disputed question of fact and Court in exercise of power under Article 226 of the Constitution of India cannot return finding *qua* disputed question of facts or documents. The selection process has already completed, thus, at this stage, it would not be appropriate to ask the respondent to conduct fresh medical examination.

9. The 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
<i>Whether Reportable</i>	<i>Yes/No</i>