

**110+222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

2023:PHHC:153946

CWP-27230 of 2018 (O&M)

Date of decision : December 04, 2023

Manish Dadwal

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Pradeep Sharma, Advocate for the petitioner.

Mr. Anil Chawla, Senior Panel Counsel,
for Union of India-respondents

CM-10787-CWP-2023

Application for placing on record written statement on behalf of the respondents is allowed. The same is taken on record subject to just exceptions. Registry is directed to tag the same at appropriate place.

CM stands disposed of.

CWP-27230-2018

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to conduct fresh medical examination of the petitioner.

2. The petitioner was selected for the post of Constable (GD). He was subjected to medical examination on 23.08.2017 and in the said examination, he was found fit. On account of administrative issues, the petitioner was not forwarded for training and in this process, a period of 180 days expired and as per policy of the respondent, the petitioner was re-examined on account of expiry of 180 days. In the re-examination, the petitioner was declared unfit on the ground of 'Squatting Defect'. The petitioner requested for Review Medical

Board. The petitioner was subjected to medical examination by Review

Medical Board wherein vide report dated 06.03.2018, he was declared unfit on the ground of 'Squatting Defect'.

3. Learned counsel for the petitioner *inter alia* contends that petitioner in the first medical examination was found medically fit and on account of administrative reasons, a batch of selected candidate could not be sent for training. A period of 180 days expired and entire batch was subjected to medical re-examination. As per information of the petitioner, the respondent declared four persons medically unfit on the same ground i.e. 'Squatting Defect'. The petitioner got himself examined from Civil Hospital Hoshiarpur, wherein he was found free from aforesaid defect. The alleged defect at the most is a temporary defect which occurs on account of exercise. The prayer of the petitioner is limited to the extent that he may be subjected to fresh medical examination.

4. Learned counsel for the respondents submits that petitioner was twice subjected to medical examination and same defect was found, thus, authorities have rightly rejected candidature of the petitioner. He was examined as per guidelines of the Department.

5. I have heard the arguments of learned counsels for the parties and perused the record with their able assistance.

6. From the perusal of record and arguments of both sides, it comes out that petitioner was initially subjected to medical examination on 23.08.2017. He was found medically fit and selected for the post of Constable (GD). On account of administrative difficulties, a batch of Constables could not be forwarded for training and a period of 180 days expired from the date of their initial medical examination. The entire batch was subjected to fresh medical examination wherein as per documents on record, four candidates were

7. It is settled proposition of law that Courts should not interfere in recruitment process qua medical examination unless and until there is glaring irregularity on the part of authorities. The facts of the present case are different from those cases where candidates are rejected at the first instance on account of medical issues. The petitioner, in the case in hand, was initially found medically fit and he was not forwarded for training on account of administrative reasons and a period of 180 days expired. Had the said period not expired, the petitioner would have joined the training and become part of the force. It is not only the petitioner who has been rejected on account of 'Squatting defect', whereas as per record, there were four candidates who have been rejected on the same ground.

8. In view of peculiar facts and circumstances of the present case, this Court finds it appropriate to direct the respondent authorities to conduct fresh medical examination of the petitioner and if he is found medically fit, the case of the petitioner, subject to availability of posts, be considered sympathetically.

9. The needful shall be done within three months from today.

10. Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

December 04, 2023
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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No