

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

129

CWP-17486-2023

Date of Decision : 16.08.2023

Shivani

..... Petitioner

Versus

Union of India and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr.Akashdeep Miglani, Advocate  
for the petitioner.

Ms. Gurmeet Kaur Gill, Sr. Panel Counsel  
for the respondent-UI.

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**JAGMOHAN BANSAL, J. (Oral)**

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking quashing of orders dated 24.07.2023 (Annexure P-5) and 31.07.2023 (Annexure P-6) whereby she has been disqualified on the medical ground.

2. The petitioner pursuant to advertisement applied for the post of Constable. The Staff Selection Commission conducted exam for the post of Constable GD in BSF, CISF, ITBP, CRPF, NCB, SSF and Assam Rifles. She appeared in the examination and cleared the same. The petitioner, thereafter, appeared for Detailed Medical Examination (DME), however, she was disqualified forming an opinion that there was discoloration on her tongue. She applied for Review Medical Examination. She was again medically examined and declared unfit by Review Medical Board.

3. Mr. Miglani, learned counsel for the petitioner contends that petitioner is medically fit and she has been wrongly rejected in medical examination as well as Review Medical Examination.

4. Ms. Gurmeet Kaur Gill, Sr. Panel Counsel who on advance notice is present in Court submits that petitioner was twice subjected to medical examination and she was found unfit, accordingly, her candidature was rejected.

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

6. 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 reexamined 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.”*

7. 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 aforesaid judgment of this Court, the present petition sans merit and deserves to be dismissed and accordingly dismissed.

16.08.2023  
anju

( JAGMOHAN BANSAL )  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |