

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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LPA-1497-2023(O&M)

Date of decision: 18.10.2023

Ashish

... Appellant

Versus

Union of India and another

... Respondents

**CORAM: HON'BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE AMAN CHAUDHARY**

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

AMAN CHAUDHARY, J.

CM-3832-2023

For the reasons enumerated in the application, the same is allowed.

Delay of 12 days in refiling the appeal is hereby condoned, subject to all just exceptions.

LPA-1497-2023

1. The present intra-court appeal, under Clause X of the Letters Patent has been filed against the judgment dated 20.07.2023, vide which the civil writ petition preferred by the appellant came to be dismissed.

2. Learned counsel would contend that the appellant, who had applied for the post of Navik (General Duty), was wrongly declared unfit by the Medical Board, as when he got himself examined from the Base Hospital, Delhi Cantt. the doctor opined him to be fit. However, still relief was declined to him by the learned Single Judge on the ground that in the Review Medical Board as well, he was found to be unfit, which was in fact not conducted and he was merely photographed.

3. Notably, the appellant was initially examined on 10.09.2021 by the Medical Board, wherein he was found suffering from “Acne Vulgaris” and as such, declared unfit, whereafter, even in the Review Medical Board conducted, the result was the same. Reliance that was placed before the learned Single Judge on a report of the medical examination got conducted by the appellant before the Base Hospital, Delhi Cantt., purportedly to be in his favour, was found to be a false medical certificate, in view of which, it would be apposite to refer to the relevant portion of the short reply by way of affidavit dated 26.09.2023 of the Deputy Inspector General, posted as Principal Director at Coast Guard Headquarters, New Delhi, which reads thus:

“...and in this respect it was clarified by the Base Hospital that on scrutiny of the medical certificate said to be issued by Base Hospital, Delhi Cantonment, attached with main Writ Petition as Annexure P-7, it was found that no record exists in respect of the petitioner with regard to his medical examination by specialist of Department of Dermatology of the Base Hospital on the date mentioned, in the central registration and OPD Records available in the Base Hospital, Delhi Cantonment. It was further added by the Base Hospital, in the aforesaid clarification letter that even the Signature and stamp on the alleged medical certificate does not belong to the Dermatologist of the said hospital. The copy of the letter written in reply to the clarification sought by Coast Guard by the Base Hospital dated 27 Oct 2021 after scrutiny of the Medical certificates is attached herewith as Annexure R-4 for perusal of the Hon'ble Court. It is explicitly clear from the above that the petitioner has produced a false and unauthentic medical certificate, just to get selected for the post of Navik (GD), by concealing the essential facts in his petition before the Hon'ble Court.”

4. The assertion of the appellant that in the Review Medical Board, in fact no examination was conducted, stands falsified by the categorical rebuttal to the same in the aforesaid affidavit, which reads thus:

“Thus, the contention by the petitioner that his request for re-examination has not been entertained, and simply photo was taken, and that he is medically fit in all respects is evidently a deceptive fact, which is submitted by the petitioner with the sole purpose of misleading the Hon'ble court. The relevant fact

to be submitted is that the petitioner was provided with another opportunity for Appeal Medical Examination, as per his appeal at INHS Kalyani, Vishakhapatnam, where he was adequately examined and again declared Unfit for 'Acne Vulgaris' (Skin). Moreover, the details of his medical examination are clearly mentioned in the report provided by the INHS Kalyani to the petitioner, and the petitioner was informed about the same by the Medical Officer.”

5. Given the facts that emerge in the present case, the appellant having been examined twice over, was found to be unfit, on account of 'Acne Vulgaris'. His endeavour to project that his re-examination was a farce, stands stoutly negated by the authorities, as noticed above. Likewise, the medical certificate produced by him, stated to have been issued by the Base Hospital, Delhi Cantt., not only fell flat, but it transpired as a matter of fact that it was fake. Further still, the selection process already stands concluded.

6. On the aforesaid anvil, the judgment passed by the learned Single Judge does not suffer from any illegality or perversity, which calls for any intervention. Sequelly, the present appeal being devoid of merit, is hereby dismissed.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

18.10.2023

gsv

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO