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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 15.03.2023*

+ W.P.(C) 3103/2023 and CM APPL. 12082/2023

SH. GUNKESH MEENA Petitioner
Through: Mr. T.D Yadav, Advocate.

Versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Rahul Sharma, Sr. Panel Counsel
with Mr. Amit Acharya, G.P

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT (oral)

1. The petitioner in his writ petition has made following prayers:

- a) *To set aside and quash the Medical Report dated 05.12.2022.*
- b) *To direct the respondents to further consider the case of the applicant for appointment to the post of Const (Auto Elect) Male.*
- c) *To direct the respondents to produce relevant record pertaining to the petitioner before the Hon'ble Court.*
- d) *To direct the respondents to grant all the consequential benefit like seniority and pay allowances to the applicant.*

2. The respondents invited online applications for the post of Const. (Auto Elect) Male along with other post on 10.06.2022.

3. On 04.09.2022, the petitioner applied and respondent issued E-admit Card for appearing Ist Phase written examination. On 13.10.2022, result of Ist Phase examination was declared and petitioner was qualified and was

shortlisted for the said post. On 28.11.2022, the respondents issued E-admit Cards for appearing IInd Phase examination. Accordingly, the petitioner appeared on 01.12.2022 in OPD at BSF Hospital wherein the Medical Examination and Review Medical Examination conducted by the respondents, declared the petitioner as medically unfit for “Genital Warts”. Thereafter, the petitioner appeared in AIIMS/Safdarjung Hospital on 02.12.2022 and medical opinion was recorded that “Genital Warts are not interfering in day to day working”.

4. Since there are two different medical opinions, therefore, without going into the controversy, we dispose of the present petition by directing the RR Hospital to constitute a Medical Board and assess the petitioner accordingly within three weeks. The respondents shall facilitate the petitioner to get medically examined.

5. As agreed by the learned counsel for the petitioner, the report of the RR Hospital shall be final and binding.

6. We hereby make it clear that in case both the vacancies for ST Post are filled up, the petitioner shall be appointed against the next year vacancy but his seniority shall be fixed along with this batch.

7. In view of above, present petition as well as pending application, if any, stand disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 15, 2023/PA

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