

\$~29

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of decision: 16.03.2023

+

W.P.(C) 3247/2023 & CM APPL.12632/2023

GOPESH KUMAR YADAV

..... Petitioner

Through: Dr.S.S. Hooda, Adv.

versus

UNION OF INDIA & ANR.

..... Respondents

**Through: Ms.Ritu Reniwal, SPC with
Ms.Perna (GP) for Respondent Nos.1
& 2.**

**Mr. Hemendra Singh, Dy.
Commandant (Law) BSF**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. Vide the present petition, petitioner prays as under:

- a. *To quash the findings of the Detailed Medical Examination and the Review Medical Examination in respect of the Petitioner for Direct Recruitment for the Post of Head Constable (Radio Operator) and Head Constable (Radio Mechanic) which declared the Petitioner unfit; and*
- b. *To constitute an independent Medical Board consisting of doctors from the Army Hospital (R & R), New Delhi or any other Hospital to ascertain the medical condition of the Petitioner.*

2. Case of the petitioner is that he applied for the examination for direct recruitment for the post of Head Constable (Radio Operator) and Head Constable (Radio Mechanic) issued by the Directorate General of the Border Security Force and qualified the written examination and thereby eligible to appear in the Physical Examination/DME. During Detailed Medical Examination, he was declared unfit on two counts viz.

(i) Abnormal Distant and Near Vision

(ii) Anal Fissure

3. Being aggrieved, the petitioner applied for Review Medical Examination and as per the result of RME on 27.02.2023, he was found medically unfit but only on the ground of defective distant vision. Thereafter, petitioner approached the AIIMS, New Delhi and Safdarjung Hospital, New Delhi on 02.03.2023 wherein his eyesight has been found to be 6/6 i.e. within the acceptable standards.

4. Counsel for the petitioner submits that petitioner has found unfit on the ground of '*Defective Distant Vision*' which is not disputed by counsel appearing for the respondents.

5. 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's eye sight accordingly within three weeks. The respondents shall facilitate the petitioner to get medically examined.

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

7. We hereby make it clear that in case the petitioner found medically fit, petitioner shall be allowed to join further selection process.

8. 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 16, 2023/ab

