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

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Date of decision: 21.03.2023

+ W.P.(C) 3556/2023 & CM APPL. 13797/2023

MANISH SINGH

..... Petitioner

Through: Dr. S.S. Hooda, Mr. Aayushman
Aeron, Mr. Ashutosh Kumar and Mr.
Rahul Besoya, Advocates

versus

UNION OF INDIA & ANR.

.... Respondents

Through: Ms. Manisha Agrawal Narain, CGSC
with Mr. Sandeep Singh Somaria and
M. R. Goyal, Advocates, Mr.
Hemendra Singh, DC (Law), BSF

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT (oral)

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

- a) *Issue a Writ, Order or Direction in the nature of Certiorari thereby Quashing 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) *Issue a Writ, Order or Direction in the nature of mandamus directing Constitution of an independent Medical Board consisting of doctors from the Army Hospital (R & R), New Delhi or any other Hospital as this*

Hon'ble Court may deem fit to ascertain the medical condition of the Petitioner;

2. Case of the petitioner is that he applied for the examination for the Posts of Head Constable (Radio Operator) and Head Constable (Radio Mechanic) in the Border Security Force and qualified the phase I (Written Examination) and thereby eligible to appear in the phase II (Physical Endurance and Measurement Test). During Detailed Medical Examination, he was declared unfit on two counts viz.

(i) Knock Knee.

(ii) Abnormal Distant Vision.

3. Being aggrieved, petitioner applied for Review Medical Examination and as per the result of RME on 06.03.2023, he was declared unfit on the ground of "Defective Distant Vision" wherein his eyesight was recorded as 6/12 and 6/18. Thereafter, petitioner got his eyesight tested at Dr. Baba Saheb Ambedkar Hospital, New Delhi and Safdurjung Hospital, New Delhi on 09.03.2023 wherein his vision has been recorded as 6/6 for both the eyes.

4. Learned counsel for petitioner submits that as per OM bearing No.F. No.I-45024/1/2008-Pers.II dated 18.05.2012, the visual standards for direct entry SOs and Ors in CAPFs, NSG & ARs are as under:

<i>Visual Acuity Unaided (NEAR VISION)</i>		<i>Uncorrected Visual Acuity (DISTANT VISION)</i>	
<i>Better Eye</i>	<i>Worse Eye</i>	<i>Better Eye</i>	<i>Worse Eye</i>
<i>N6</i>	<i>N9</i>	<i>6/6</i>	<i>6/9</i>
<i>For a right-handed person, the better eye is right eye and vice versa</i>			

5. Learned counsel for petitioner further submits that as per report of Dr.

Baba Saheb Ambedkar Hospital, New Delhi and Safdurjung Hospital, New Delhi, petitioner's eyesight is within the prescribed standards.

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

7. 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 four weeks. The respondents shall facilitate the petitioner to get medically examined.

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

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

10. In view of above, present petition and pending application stand disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 21, 2023/rk

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