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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 20th April, 2023

+ W.P.(C) 4987/2023

CHETAN

..... Petitioner

Through: Dr. Kedar Nath Tripathy & Mr.
Raghunath Pathak, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Sushil Raaja, Sr. Panel
Counsel & Mr. Mimansak
Bhardwaj, Govt. Pleader with
Mr. Hemendra Singh, DC
(Law) BSF for UOI.

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, the petitioner is seeking following reliefs:

“a.) Pass an order quashing the medical examination report dated 10.03.2023 conducted by the Medical Examination Board of the BSF;

b.) Issue a writ of mandamus or any other appropriate writ, order or directions to Respondents to conduct the fresh medical examination of the petitioner by an Independent medical examination Board preferably by AIIMS or any other Government Hospital in Delhi.”

2. The petitioner, after qualifying Preliminary Screening Test (PST), Physical Efficiency Test (PET), and Document Verification (DV) at final stage, appeared before the Detailed Medical Board and the Review Medical

Board on 10.03.2023, wherein he was declared 'unfit' for the following reasons:

- (i) Right arm elbow carrying angle 25^0 ,
- (ii) Fixed flexion deformity on right little finger present with restricted movement at DIF Joint.

3. Being aggrieved by the findings of the Detailed Medical Board as well as the Review Medical Board, the petitioner on his own got himself examined at 'Swarn Jayanti Samudaik Hospital, Raunchi Bangar, Baad, District-Mathura, Uttar Pradesh on 13.03.2023, and thereafter, on 14.03.2023, the very next date, the petitioner again got himself examined, on his own, at 'Maharshi Dayanand Saraswati District Male Hospital, Mathura, Uttar Pradesh, and both the said Hospitals declared the petitioner 'medically fit' for the service, which is contrary to the findings of the Detailed Medical Board and the Review Medical Board of the respondent No. 2/Director General, BSF.

4. In view of the above, we hereby dispose of the present petition directing the In-charge, Research and Referral Hospital (RR), Dhaula Kuan to examine the petitioner. The said process shall be carried out within two weeks from today.

5. We further direct the respondent No. 2/Director General, BSF to facilitate the petitioner before the RR Hospital, Dhaula Kuan to get his medical examination done.

6. It is made clear, as agreed by the learned counsel for the petitioner on instructions, that the report of RR Hospital shall be final and binding upon the parties. If the said Hospital declares the petitioner 'medically fit', he shall be allowed to join the further selection process.

7. We hereby further direct the respondents to appoint the petitioner if any vacancy is left out under the Economically Weaker Section (EWS) Quota to which the petitioner originally belongs.
8. It is further made clear that if there is no vacancy left under the EWS Quota, the petitioner shall be adjusted in the next year's vacancy.
9. Accordingly, the present petition along with pending application, if any, is disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

APRIL 20, 2023
S.Sharma

