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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 24.05.2023*

+ W.P.(C) 7198/2023 and CM APPLs. 27998/2023 and 27999/2023

GAJENDRA SINGH SHAKYA Petitioner

Through: Mr. Abhimanyu Yadav, Advocate.

Versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Vivek Sharma, Sr. Panel Counsel
with Mr. Chetanya Puri, G.P
Sh. Hemendra Singh, DC LAW, BSF

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT (oral)

1. A Writ Petition under Article 226 of the Constitution of India has been filed by the petitioner seeking following reliefs:

a) To quash the Review Medical Examination pertaining to the petitioner as the same are not in consonance to guidelines issued by the respondent no. 1.

b) To allow the petitioner to join the position of Constable (Tradesman) (Sweeper) (Male) in the BSF on the basis of merit and medical fitness as the same is in consonance with the spirit of the Constitution of India.

c) To direct the respondent no. 2 to declare the petitioner medically fit in accordance with the guidelines

issued by the respondent no. 1.

2. The petitioner qualified for the post of Constable (Tradesman) (Male) in Border Security Force for the year 2021-2022. The 1st Phase Examination i.e. PST/PET and Documentation was conducted on 13.09.2022 and the 2nd Phase Written Examination was conducted on 04.12.2022. The result of the Written Examination was declared on 10.04.2023 and the petitioner was successful in the same.
3. Thereafter, on 04.05.2023, the 3rd Phase Medical Examination was conducted and the petitioner was declared unfit on medical grounds i.e. hypertension and chronic dermatitis in both hands.
4. Thereafter, the petitioner, on recommendation of the respondent, got himself tested in V.M.M.C and Safdarjung Hospital Department of Dermatology and STD for Keratolysis exfoliative and was reported as physically fit for duty.
5. Since, there are different opinions of Review Medical Board and V.M.M.C and Safdarjung Hospital, therefore, in the interest of justice, we hereby direct the In-charge of the R&R Hospital to constitute a Medical Board and examine the petitioner within three weeks from today.
6. The R&R Hospital shall examine the petitioner in terms of revised guidelines dated 20.05.2015. As agreed by the learned counsel for the petitioner, on instructions, the Report of R&R Hospital shall be final and binding.
7. We hereby make it clear that if the petitioner is found to be medically fit, the respondents are directed to allow the petitioner to join further selection process.

8. The present petition alongwith pending applications, if any, is disposed of accordingly.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

MAY 24, 2023/PA

