



Neutral Citation Number 2023:DHC:6334-DB

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

% Judgment delivered on: 01.09. 2023

+ W.P.(C) 8562/2023, CM APPL. 32561/2023 & CM APPL.
45194/2023

SITESH KUMAR MISHRA

..... Petitioner

versus

UNION OF INDIA & ORS.

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Sahil Chandra, Advocate

For the Respondent: Mr. Farman Ali (Senior Panel Counsel) with Ms. Avshreya Pratap Rudy, (Govt. Pleader), Ms. Usha Jamnal, Advocate and SI Harendra Singh, SSB

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks quashing of Detailed Medical Examination opinion dated 26.05.2023 and the Review Medical Board result dated 27.05.2023 whereby petitioner has been declared unfit on account of 'dextrocardia'.

2. Petitioner had joined the services of Sashastra Seema Bal as a Sub-Inspector in the year 2012 and has been successfully serving



Neutral Citation Number 2023:DHC:6334-DB

therein and undergoing the annual medical examination and was being declared Shape-I continuously and has even been granted regular promotion to the rank of Inspector (GD) besides receiving the commendation certificate for his outstanding performance and other awards.

3. Petitioner applied for promotion to the post of Assistant Commandant through Limited Departmental Competitive Examination for the years 2018-2022. Petitioner qualified all other examinations including physical standard test and physical efficiency test. However, in his medical, he has been declared unfit on the ground of 'dextrocardia'.

4. Learned counsel for petitioner submits that 'dextrocardia' is not an illness or an ailment but is a constitutional issue where heart of an individual is situated on the right side instead of left. He submits that the past record of petitioner shows that the condition of petitioner is not an impediment in discharge of duties and petitioner has been declared Shape-I in all his medical examinations and even earned commendations and awards.

5. Learned counsel for petitioner relies on the Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, *inter alia*, 6 (20) which stipulates that any congenital abnormality, so as to impede efficient discharge of training/duties is a ground for rejection.



Neutral Citation Number 2023:DHC:6334-DB

6. We may note that neither the Detailed Medical Examination report nor Review Medical Board result holds that the condition of ‘dextrocardia’ in the case of petitioner impedes efficient discharge of training/duties.

7. Reference may be had to the decision of a Co-ordinate Bench of this Court dated 28.01.2021 in WP (C) No. 11774/2019 titled ***Vikas Singh Vs. Union of India*** wherein in similar circumstances, this Court had directed the respondent to constitute another Review Medical Board to examine the petitioner therein and to clearly opine as to whether the congenital abnormality impeded petitioner’s efficient discharge of training/duties.

8. In view of the above, this petition is disposed of directing the respondents to constitute another Review Medical Board to examine the petitioner and clearly opine as to whether petitioner’s congenital abnormality, namely, ‘dextrocardia’ would impede efficient discharge of his training/duties.

9. The Review Medical Board be constituted within a period of two weeks with intimation to the petitioner. The opinion of the Review Medical Board be also communicated to petitioner.

10. Needless to state that it would be open to the petitioner to avail further remedy in accordance with law, in case aggrieved by the opinion of the Review Medical Board.



Neutral Citation Number 2023:DHC:6334-DB

11. Petition is disposed of in the above terms.
12. Order *dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

SEPTEMBER 1, 2023/dr