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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + W.P.(C) 8601/2023, CM APPL. 32663/2023 & CM APPL. 32664/2023

VISHAL

..... Petitioner

Through: Ms. Nisha Dhaka, Mr. Jasbir Balhara and Mr. Naveen Kumnar, Advs..

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Jatin Singh, Mr. Keshav Sehgal, Mr. Shivam Gaur, Ms. Ramya Sani for the respondents with Mr. Hemendra Singh (DC Law, BSF) and Mr. Manoj Kumar Sharma, (DC, BSF)

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER (O R A L)

28.06.2023

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per C.HARI SHANKAR, J

1. The petitioner who was working as Sub-Inspector with the Border Security Force (BSF), appeared for a limited departmental examination for advancement to the grade of Assistant Commandant on 28 August 2022. After clearing the said examination he appeared for physical examination on 26 September 2022, and was subsequently interviewed on 19 May 2023.



2. The petitioner was subjected to a medical examination on 8 June 2023, where he was declared unfit on 9 June 2023 on the ground that his haemoglobin was 16.9 gm/dl and Calcium Oxalate Crystals were found in his urine. Consequent on his representation, he was subjected to a Review Medical Board on 10 June 2023, which found that, apart from Calcium Oxalate in the urine, RBC was also present to the extent of 8 to 10/HPF.

3. Ms. Nisha, learned Counsel for the petitioner advances three submissions, apropos the Review Medical Board; i.e. firstly, that the Review Medical Board for the first time, found RBC in the urine, whereas no RBC was found in the urine either in the initial medical examination or in the examination conducted at an outside private laboratory; secondly, that the Review Medical Board was conducted in two different laboratories instead of one and, thirdly, that the Review Medical Examination was over in half an hour.

4. Given the fact that the matter involves advancement in the career of an officer in the BSF and also keeping in mind the nature of the disqualifications which were found, this Court is of the opinion that the interests of justice would best be subserved if the petitioner is directed to be re-examined by one more Review Medical Board which shall proceed strictly in accordance with the guidelines dated 31 May 2021 issued in that regard, annexed as Annexure P-6 to the writ petition, and shall re-examine the medical eligibility and entitlement of the petitioner for appointment to the post of Assistant Commandant.



5. Let the needful be done within a period of 10 days from today.
6. Needless to say, should the petitioner continue to be aggrieved by any decision that is taken, the rights of the petitioner, as available in law, stands reserved.
7. The petition stands disposed in the aforesaid terms.

C.HARI SHANKAR, J
(VACATION JUDGE)

MANOJ JAIN, J
(VACATION JUDGE)

JUNE 28, 2023

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