



Neutral Citation Number 2023:DHC:4577-DB

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

% Judgment delivered on: 06.07.2023

W.P.(C) 8760/2023

+ W.P.(C) 8760/2023 & CM APPL. 33125/2023

MOHAN SINGH Petitioner

versus

UNION OF INDIA, & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. R.K Ojha, Advocate.

For the Respondents: Mr. Sidharth Khatana, Sr. Panel Counsel
with Mr. Rattan Negi, DC.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns the decision of the respondent in declaring the petition medically unfit.
2. Petitioner had applied pursuant to a notification issued by the respondent for recruitment to post of Navik (D), Navik (Domestic Branch) and Yantrik in the Indian Coast Guard.
3. Petitioner appeared for the Coast Guard Navik (Domestic Branch) stage I and II examinations and cleared the same. Petitioner



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was thereafter called for stage III (induction programme) which inter alia includes medical examination.

4. The subject notification for stage II stipulates an Initial Medical Examination (Provisionally Pass or Fail). The initial medical examination is conducted at the place of recruitment and is valid for a period of six months and candidates are required to undergo another initial medical examination if the recruitment process is delayed due to any unforeseen event.

5. Petitioner was initially subjected to primary medical examination as part of the stage II process and was declared temporary unfit for “left ear Otomycosis and overweight”.

6. On 09.01.2023, petitioner filed a review and the Review Board certified the petitioner as medically fit on 25.02.2023.

7. Subject notification for stage III inter alia prescribes final medical at INS Chilka.

8. The conditions stipulated is as under:

“(ii) Final Medicals of INS Chilka. Final Medical Examination (Review Medicals as part of Final Medical (Provisionally ‘Pass’ or ‘Fail’) of all selected candidates will be done at INS Chilka. Candidates, who are not found medically fit in the final medical examination at INS Chilka, will NOT be enrolled for training. “An Appeal” is permitted for medical medically unfit candidates after the final enrolment medical examination at INS Chilka and will be given an opportunity to appeal against the findings. If they so desire at a Military Hospital as decided by the Coast Guard ‘within a maximum period of 12 days or as decided by INS Chilka. The candidate will travel to the selected Military Hospital and back on their own expense for Appeal Medical Examination.”

9. The condition stipulates that medical of all selected candidates would be done at INS Chilka and candidates, who are not found



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medically fit, shall not be enrolled for training. An appeal is permitted for medically unfit candidates.

10. The stipulation of a final medical at INS Chilka as part of stage III, which is to be conducted after the initial medical examination conducted at stage II, shows that the final medical at INS Chilka shall override the initial medical examination conducted at the place of recruitment.

11. The condition stipulated is very clear i.e, that the medical report of INS Chilka shall be final and binding.

12. Petitioner after having been declared initially medically fit by the Review Board at the place of the recruitment was subjected to final medical at INS Chilka. In the primary medical examination, conducted on 26.05.2023, petitioner was declared as unfit for “upper limb-CUBITIUS VALGUS”. Petitioner thereafter filed an appeal in terms of the above referred conditions.

13. Petitioner was directed to report to INHS Kalyani, Visakhapatnam on 15.06.2023. Petitioner was once again examined by the specialists who on re-examination on 15.06.2023 declared the petitioner as unfit “CUBITIUS VALGUS” bilateral and reported the bilateral carrying angle as greater than 20 degrees.

14. The initial medical examination of the petitioner conducted at INHS Nivarini shows the petitioner as unfit and the appellate medical examination at INHS Kalyani, Visakhapatnam also confirmed the said findings.

15. There is no reason for us to take a view different from the two



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Medical Boards specially constituted for the said purpose in the terms of the notification which have declared the petitioner as unfit.

16. It is settled position of law that the High Court does not sit as a Court of Appeal over the opinion of experts. The Medical Board comprises of specialists, particularly in the case of Armed Forces and Para Military Forces, the requirement is of a higher physical standard than that required in a civilian life. The specialists and experts of the Armed Forces and in this case, the Indian Navy have examined the petitioner and declared him unfit for Military Services. This Court cannot substitute its view for the view taken by the experts.

17. There is no material produced by the petitioner to bring a cloud on the two medical reports of the specialists and experts of the Indian Navy.

18. Reliance placed by learned counsel for the petitioner on the decision of the Co-ordinate Bench of this Court dated 06.01.2023 in W.P.(C) 17612/2022 by *Gaurav Baisoya Vs Union of India and Ors.* is misplaced. It may be noticed that the ailment in the said case was of “COMPLEX CYSTIC LESION RT KIDNEY” and in the present case is of locomotor disability of limb- CUBITIUS VALGUS which is affecting the upper limb of the individual.

19. In the said case of *Gaurav Baisoya* (Supra), the ailment was completely different and we are informed that subsequently, *Gaurav Baisoya* was examined at INS Chilka and found completely fit.

20. We have been informed by the Deputy Commandant Coast Guard who is present in person that in *Gaurav Baisoya* (Supra) after



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the review Medical Board was conducted as directed by this Court, he did not report for joining and in any event we have noticed that the ailment in issue here and ailment in issue there is completely different and in *Gaurav Baisoya* (Supra) he had also got himself examined by the specialists of All India Institute of Medical Sciences and there was a report in his favor.

21. In the instant case, there is no medical opinion of any expert to counter the report given by the experts of the Indian Navy.

22. In view of the above, we have found no reason to interfere with the decision taken by the respondent in declaring the petitioner unfit for the concerned military service.

23. There is no merit in petition. The petition is accordingly, dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

JULY 6, 2023/swati

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