



Neutral Citation Number 2023:DHC:4691-DB

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

% Judgment delivered on: 06.07.2023

W.P.(C) 8790/2023

+ **W.P.(C) 8790/2023 & CM APPL. 33166/2023**

YOGESH

..... 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. Vijay Joshi, Sr. Panel Counsel with Mr.
Ratan Negi, Dy Commandant.

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 petitioner 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



Neutral Citation Number 2023:DHC:4691-DB

Branch) stage I and stage II examinations and cleared the same. Petitioner was thereafter called for stage III (induction programme) which inter alia includes medical examination.

4. The subject notification for stage II stipulates conduct of 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 temporarily unfit for “DNS Left”.

6. On 11.01.2023, petitioner filed a review and the Medical Review Board certified the petitioner as medically fit on 15.02.2023.

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

8. The conditions stipulated are 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.”



Neutral Citation Number 2023:DHC:4691-DB

9. The condition stipulates that medical of all selected candidates will be done at INS Chilka and candidates who are not found medically fit, shall not be enrolled for training. An appeal, though, 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 INS Chilka shall override the initial medical examination conducted at the place of recruitment. The condition stipulated very clearly that the medical report of INS Chilka shall be final and binding.

11. 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.

12. In the medical examination, conducted on 25.05.2023, petitioner was declared as unfit. His vision was 6/18 (for right eye), 6/12 (for left eye) and his near vision was recorded N-18 (for right eye) and N-12 (for left eye).

13. He was, thus, found unfit with the remarks “Refractive Error Both Eyes”. The petitioner sought option for appeal medical examination and was accordingly referred for specialist’s opinion and as per the specialist’s opinion, given during *Appeal Medical Examination*, he was again declared ‘unfit’ as his vision was found to be 6/24 in both the eyes.

14. Both the initial medical examination of the petitioner conducted at INHS Nivarini and the petitioner as unfit and the Appellate Medical



Neutral Citation Number 2023:DHC:4691-DB

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 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. In view of the above, we find no reason to interfere with the decision taken by the respondent in declaring the petitioner unfit for the concerned military service based on his medical examination.

19. There is no merit in the petition. The petition is accordingly, dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J



Neutral Citation Number 2023:DHC:4691-DB

JULY 6, 2023/swati

