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**IN THE HIGH COURT OF DELHI AT NEW DELHI***Judgment reserved on: 28.07.2023**Judgment delivered on: 06.09.2023*

+ W.P.(C) 9652/2023, CM APPL. 36981/2023

SOHAN LAL

..... Petitioner

Through: Mr.Shashank Khurana, Mr.Sarthak  
Sharma and Mr.Santosh Kumar,  
Advocates.

versus

DEPARTMENT OF PERSONNEL AND TRAINING

..... Respondent

Through: Ms.Pratima N. Lakra, CGSC with  
Ms.Kashish Gupta, Advocate.  
Ms.Nila Mohanan, Joint Secretary,  
DoPT.**CORAM:****HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA****J U D G M E N T****ANOOP KUMAR MENDIRATTA, J.**

1. The challenge in this Writ Petition is to an order dated May 29, 2023 passed by the Central Administrative Tribunal (hereinafter referred to as the "Tribunal") in C.P. No.61/2023 whereby the Contempt Petition preferred by the petitioner was closed.

2 (i). In brief, as per the case of the petitioner, he graduated from Indian Institute of Technology (IIT), Bombay with a degree in



Electrical Engineering and appeared for the Civil Services Examination 2018 (CSE-2018) conducted by Union Public Service Commission (UPSC) under the **‘multiple disability (MD)’ category** having ‘visual impairment’ and ‘locomotor disability’. After clearing the prelims and main examination, petitioner appeared for medical examination under patronage of AIIMS, New Delhi in February, 2019 and as per his claim was found to fall under the ‘multiple disability’ category with 45% disability. Accordingly, he was deemed to be eligible for services other than ‘technical services’. The medical report was also forwarded to Department of Personnel & Training (DoPT) and post verification uploaded on the portal, providing 15 days to the petitioner to prefer an appeal. Since the petitioner was ineligible only for ‘technical services’, he chose not to challenge the findings of the medical report. However, petitioner could not clear the required final cut off for CSE-2018 under the ‘multiple disability’ category.

Thereafter, the petitioner again appeared for Civil Services Examination-2019 & 2020 under the ‘multiple disability’ category relying upon earlier medical examination report but was unsuccessful.

(ii) Finally, the petitioner appeared in his fourth attempt for Civil Services Examination-2021 under the ‘multiple disability’ category, in line with the earlier medical reports for 2018 CSE Cycle and succeeded to secure All India Rank of 681 and fourth rank under the



‘multiple disability’ category. As directed by DoPT, petitioner further appeared before AIIMS Medical Board as per prescribed rules. Intimation was also received by him from Lal Bahadur Shastri National Academy of Administration inviting him to register for the 97<sup>th</sup> Foundation Course being a successful candidate.

(iii) It is further the case of the petitioner that on July 07, 2022, he was intimated through ‘cseplus.nic.in’ portal by DoPT, placing him under the ‘locomotor disability’ category instead of ‘multiple disability’ category, maintaining the disability percentage at 45%. Petitioner was accordingly declared unfit for all services (due to “Invalid PH sub-category”) and was given 15 days to challenge the result.

(iv) Based upon petitioner’s appeal, he was re-examined at AIIMS and again found to be falling under the ‘locomotor disability’ category but this time the disability percentage was reflected as 65% with conflicting visual acuity readings.

(v) Petitioner made a representation to DoPT on October 27, 2022 seeking clarification regarding the inconsistencies in the multiple medical reports as it adversely affected his candidature.

In response thereupon, AIIMS informed DoPT vide letter dated October 27, 2022 that it appeared to Appellate Medical Board that there was ‘error of judgment’ by the earlier Medical Board as to (i)



nature/category of disability and (ii) percentage of disability.

(vi) Petitioner, thereafter, undertook an independent diagnosis of his visual acuity at Sawai Mansingh Chikitsalay, Jaipur and claims to have been diagnosed with inherent medical condition i.e. 'Ptosis' and a visual acuity of 6/60 in his left eye. Petitioner also undertook a fresh medical examination at SMC Government Hospital, Jaipur on December 08, 2022 which found that the petitioner's field of vision was subtending an angle between 20 to 30 degrees.

(vii) In the aforesaid background, petitioner initially preferred a Writ Petition in December, 2022 claiming relief against non-allocation of service but withdrew the same to approach the Central Administrative Tribunal.

(viii) Thereafter, petitioner preferred O.A.No.3803/2022 before the Tribunal seeking following reliefs:

(a) *Set aside the Impugned Intimation given by Respondent No. 3 in July 2022 declaring the Applicant to be "unfit for all services" due to "Invalid PH";*

(b) *Set aside the inconsistent reports of Respondent No. 2 dated April 30, 2022 and September 30, 2022;*

(c) *Declare the Applicant to be a person with Multiple disability;*

(d) *Direct the Respondents to allocate a service to the Applicant as per the set procedures as he has cleared the cutoff under the MD category and there are unfilled vacancies in the aforesaid category;*



*(e) Alternatively, direct the Respondents to al locate a service to the applicant under the vacant seats in the locomotor disability category, as per the set procedures and provisions prescribed under Section 34 of the RPwD Act, 2016, in line with the principles of reasonable accommodation;*

*(f) Declare Rule 18(1) of the Civil Services Examination Rules, 2021, manifestly arbitrary, and violative of Article 14, Article 19 and Article 21 of the Constitution of India and the Rights of Persons with Disabilities Act, 2016, in its application to Candidates with a permanent and stable disability;*

*(g) Direct the Respondents to immediately constitute a competent medical board to re-examine the Applicant and the extent and nature of his disabilities, in light of the urgency given the upcoming CSE-2023 cycle, and abide by the findings of the report of such medical board for the CSE-2023 cycle and subsequent cycles of the Civil Services Examination;*

*(h) Direct the Respondents to pay compensation to the Applicant, for the mental agony, pain and suffering caused, due to Respondents' callous and indifferent attitude as may be deemed fit by the Hon'ble Court; and*

*(i) Pass such other and further orders/directions as this Hon'ble Court may deem fit and proper in the facts and circumstance of the case."*

**(ix)** The same was disposed of by the Tribunal vide order dated December 23, 2022 directing fresh examination of the petitioner by independent Medical Board in terms of para 6 & 7, which may be reproduced for reference:

*"6. In the fitness of things, as the applicant has himself prayed in Para 8(g) of the OA for constituting a competent medical board to re-examine the case of the applicant to ascertain the nature of his disabilities. We feel this Original Application can be disposed at the admission stage.*



7. In view of the fact that is no dispute that the applicant stands selected for IAS 2021 batch and there a three different reports of the Medical Board conducted at the same hospital i.e. AIIMS New Delhi. More so the fact the one of the Doctors i.e. Dr A.R Chanu has been part of the Ist Medical Board and the Appellate Medical Board that defeats the purpose of medical examination by the Appellate Board , We have no doubt that case of the Applicant needs to be assessed once again, Accordingly the respondent no 3 is directed to get the applicant reexamined by constituting an independent board consisting of Two subject expert doctors from any of the hospitals from the list of hospitals mentioned at page 77 of this Original application and One subject expert doctor of AIIMS, The expert doctor from AIIMS shall be the one, who has not been a part of the any of the aforesaid three medical boards. It is made clear that the doctor(s) shall personally examine the applicant medically, excluding the technicians rather no technician be involved in the said medical examination. All the three reports may be placed before the said medical board. The said exercise shall be completed within a period of two weeks. In case, the applicant is found fit, the case of the applicant may be processed further as per rule.”

(x) A Contempt Petition was again preferred by the petitioner before the Tribunal, which was closed vide order dated May 29, 2023 in following terms:

“Heard learned counsel for the respective parties.

2. Learned counsel for the respondent submitted that Mr. Anshuman Mishra, Under Secretary, Department of Personnel and Training, Government of India has filed a compliance affidavit dated 23.05.2023 along with the medical examination report. The following averments are made in para 4 to 8 in the compliance affidavit. The supporting documents have also been filed by the respondent.

3. In the light of above, we find that the order dated 22.12.2022 passed by the Division Bench of this Tribunal in OA 3803/2022 is duly complied with by the respondent.

4. We, therefore, close the proceedings of the CP. Notice stands discharged.”



The averments made in para 4 to 8 of the Compliance Affidavit by the respondents may be reiterated as the same have not been reproduced by the Tribunal in order dated May 29, 2023, in order to appreciate the stand of the respondents:

*“4. That it is respectfully submitted that in compliance of the orders passed by this Ld.Tribunal, the Respondent had issued Office Memorandum No. 22012/01/2023-AIS-I dated 20th March, 2023 to DGHS requesting therein for constitution of an appropriate Review Medical Board.*

*A copy of Office Memorandum No.22012/01/2023-AIS-I dated 20th March, 2023 is being filed as **Annexure RCP-1** for kind perusal of this Ld. Tribunal.*

*5. It is submitted that DGHS vide its letter No.12034/05/2023-SAS-III (E-8212816) dated 20.03.2023 had advised Atal Bihari Vajpayee Institute of Medical Science and Dr. Ram Manohar Lohia Hospital, New Delhi to constitute a suitable Board for re-examining the candidate.*

*A copy of letter No. 12034/05/2023-SAS-III (E-8212816) dated 20.03.2023 is being filed as **Annexure RCP-2** for kind perusal of this Ld.Tribunal.*

*6. It is submitted that accordingly, Atal Bihari Vajpayee Institute of Medical Science and Dr. Ram Manohar Lohia Hospital New Delhi had constituted a Review Medical Board for the disability assessment of Shri Sohan Lal (CSE-2021, Rank: 681) and meetings of the Medical Board were scheduled on 11.04.2023 and 18.04.2023 for the medical examination of Shri Sohan Lal.*

*Copies of Meeting Notice No. 13-10/2023-CSMB/1572 dated 05.04.2023 and 12.04.2023 are being filed as **Annexure RCP-3** for kind perusal of this Ld. Tribunal.*

*7. It is submitted that vide letter No. 13-10/2023-CSMB/73 dated 19.04.2023, Atal Bihari Vajpayee Institute of Medical Science and Dr. Ram Manohar Lohia Hospital, New Delhi has forwarded disability assessment report of Shri Sohan Lal (CSE-2021, Rank: 681) in*



*compliance of this Ld. Tribunal's order dated 23.12.2022 and 15.03.2023.*

*A copy of letter No. 13-10/ 2023-CSMB/73 dated 19.04.2023 along with the medical report is being filed as Annexure RCP-4 for kind perusal of this Ld. Tribunal. It is pertinent to submit that Shri Sohan Lal has been found as a LDCP sub category candidate and not as a MD sub category candidate as claimed by him.*

*8. That it is submitted that the above action taken by the respondent constitutes full and complete compliance of the order passed in respect of the applicant herein in the Contempt Petition."*

3. Aggrieved by the aforesaid order dated May 29, 2023 passed by the Tribunal, present Writ Petition has been preferred by the petitioner seeking following reliefs:

*"a) Issue a writ of certiorari or any other appropriate writ order or direction as this Hon'ble Court may deem fit to quash and set aside the order dated 29.05.2023 passed by the Hon'ble Central Administrative Tribunal, New Delhi in CP. NO. 61 of 2023 in O.A. 3803 of 2022.*

*b) Issue a writ of mandamus or any other appropriate writ order or direction as this Hon'ble Court may deem fit directing the Respondent to follow the 2019 medical examination reports issued by Safdarjung Hospital Delhi on 27.02.2019 and AIIMS, Delhi dated 28.02.2019 after conducting the prescribed medical examination according to the gazette notification dated 07.02.2018 for CSE 2018 rules and Guidelines and also to quash and set-aside the inconsistent reports by AIIMS, Delhi dated 30.04.2022 and 30.09.2022.*

*c) Issue a writ of mandamus or any other writ order or direction as this Hon'ble Court may deem fit directing the Respondent to follow the AIIMS Jodhpur medical examination Report held on 15.04.2023, categorizing the candidate as "Multiple disability".*

*d) Issue a writ of mandamus or any other writ order or direction as this Hon'ble Court may deem fit directing the Respondent to allow the Petitioner to undergo the Basic Training Course program which is slated to begin in last week of August 2023, for candidates who have successfully cleared the CSE 2022 and also direct the Respondent to*



*allocate a service to the Petitioner under the vacant seats in the Locomotor Disability Category, as per the set procedures and provisions prescribed under Section 34 of the RPwD Act, 2016, in line with the principles of reasonable accommodation.*

*e) Pass such further or other order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."*

4. Learned counsel for the petitioner submits that since the Medical Board at AIIMS, New Delhi in the year 2019 for CSE-2018 assessed the petitioner in 'multiple disability' category, he had applied under the said category for subsequent examinations for the years CSE-2019, 2020 & 2021. It is urged that subsequently petitioner has been wrongly assessed to fall under 'locomotor disability' (i.e. single disability). It is pointed out that the conflicting reports have been given by various Medical Boards adversely impacting the candidature of the petitioner. It is claimed that there has been an unfair denial of opportunity to the petitioner as a disabled candidate in violation of the provisions of Rights of Persons with Disabilities Act, 2016.
5. Petitioner has also pointed out the variance in the 'visual acuity readings' in the three medical reports as under:

| <b>S. No.</b> | <b>Particulars of the report</b>             | <b>Visual Acuity Readings</b> |                    |
|---------------|----------------------------------------------|-------------------------------|--------------------|
| 1.            | CSE 2018 CSMB Report<br>(February 2019)      | Right Eye:-<br>6/9            | Left Eye:-<br>6/18 |
| 2.            | CSE 2021 CSMB Report<br>(April 2022)         | Right Eye:-<br>6/6            | Left Eye:-<br>6/9  |
| 3.            | CSE 2021 AIIMS MB Report<br>(September 2022) | Right Eye:-<br>6/6            | Left Eye:-<br>6/12 |



Learned counsel for the petitioner emphasizes that the petitioner suffers from medical condition, namely, 'Ptosis' by birth which subsequently resulted in amblyopia (lazy eye) and hypotropia, leading to loss of visual activity in his left eye. It is urged that despite the inherent medical conditions, AIIMS Medical Board in 2021 took a complete u-turn vis-a-vis earlier medical report submitted in 2019, by holding that there was no visual impairment.

The discrepancy in findings of various Medical Boards was also highlighted as under:

**"Overview of the findings of the various medical reports over the years:-**

**(a) Medical Board Report 2019:**

Subcategory -Multiple disability

Visual Impairment -Yes

Locomotor Disability - Yes (One Arm & One Leg)

Overall Disability Percentage: - 45%

**(b) Medical Board Report for 2021 exam:**

Subcategory-Locomotor Disability

Visual Impairment-No

Locomotor Disability -Yes (One Arm & One Leg)

Overall Disability Percentage: - 45 %

**(c) Challenged Medical Report for 2021 Exam** (highlighting changes in functional classification (From One Arm One Leg to One Arm) as well as disability percentage (from 45% to 65%).

Subcategory - Locomotor Disability

Visual Impairment - No

Locomotor Disability- Yes (One Arm)

Overall Disability Percentage: - 65 %"

6. Reliance was further placed by the petitioner on the medical examination report undertaken at his own end at Sawai Mansingh



Chikitsalay, Jaipur, wherein the visual acuity readings were recorded as under:

| <i>S. No.</i> | <i>Particulars of the report</i> | <i>Visual Acuity Readings</i> |                    |
|---------------|----------------------------------|-------------------------------|--------------------|
| 1.            | SMC Report                       | Right Eye:-<br>6/9            | Left Eye:-<br>6/60 |

Further, the field of vision was stated to be subtending at an angle between 20 to 30 degrees as per examination undertaken at SMC Govt. Hospital, Jaipur, thereby making the petitioner fall under low vision category.

7. Learned counsel for the petitioner vehemently contends that the petitioner appeared for CSE-2021 in the 'multiple disability' category solely relying on the report of AIIMS Medical Board dated February 28, 2019 for CSE-2018 and u-turn could not be taken by respondents for the purpose of appointment, claiming an error during the earlier medical examination. Reliance was further placed upon *Avni Prakash v. National Testing Agency (NTA) and Others*, (2023) 2 SCC 286 and *Vishv Mohan v. Department of Personnel and Training and Ors.*, W.P.(C) 572/2020 decided on August 22, 2022 by Division Bench of this Court.

8. On the other hand, learned counsel for the respondents contends that the process for CSE-2021 already stands concluded and it may not be possible to consider the petitioner under the 'single disability' category, at this stage. It is urged that burden lay on the petitioner to apply under the correct category of disability i.e. 'single' or 'multiple disability' as the correct medical condition is exclusively known to the petitioner and benefit



could not be wrongly obtained on account of alleged discrepancy in findings, if any. It is emphasized that there does not appear to be any apparent contradiction even in the medical reports by competent Medical Boards as to the 'nature of disability' though the percentage of locomotor disability is at variance. It is pointed out that the visual disability was observed as 0% even in the earlier medical report for CSE-2018 and the comment section merely reflected that 'the earlier DC obtained by the petitioner referred to visual disability as 20%'. It is contended that no right accrues in favour of the petitioner as he did not fall in 'multiple disability' category even as per initial medical examination for CSE-2018.

**9.** We have given considered thought to the contentions raised.

The disability standards in Civil Services Examination need to be scrupulously followed, unless it is shown that the petitioner suffered injustice by wrongful denial of his rights and entitlements as provided under the Act.

The contention raised by the petitioner is, that assessment by different Medical Boards changing his category from 'multiple disability' category to 'single disability' category has adversely impacted his candidature, though he had consistently acted upon the earlier assessment by the AIIMS Medical Board for CSE-2018, which assessed his disability under the 'multiple disability' category (i.e. with reference to both 'locomotor disability' and 'visual impairment').

**10.** No doubt, the petitioner applied and appeared for CSE-2018, 2019, 2020 and 2021 under the 'multiple disability' category, however, it needs to



be scrutinized, if the nature of classification of disability in the medical report for CSE-2018 (conducted in 2019), is actually at variance and erroneous vis-à-vis subsequent medical reports conducted for CSE-2021.

11. Admittedly, in terms of the medical examination report for CSE-2018 conducted in 2019, the 'locomotor disability' was confirmed but the percentage of disability was assessed as 45%. In the subsequent medical examination conducted for CSE-2021, the locomotor disability has been confirmed but the same has been finally assessed as 65%. It may be observed that despite the discrepancy in assessing the 'locomotor disability' at 65%, it does not, in any manner, adversely impact the petitioner for consideration for locomotor disability, since the 'disability' stands confirmed by the different Medical Boards and difference in percentage of locomotor disability is inconsequential.

12. Next, the report of the Medical Board dated February 28, 2019 (for CSE-2018) for assessment of visual disability may be analysed to ascertain the percentage of 'visual disability'.

In order to appreciate the same, it may be appropriate to notice that petitioner claims to be suffering from '**ptosis**', which is a medical condition, owing to drooping of upper eyelid due to paralysis or disease or as a congenital condition, and may lead to impairment or obscurity of vision, depending upon the gravity.

The observations of the Medical Board comprising of Dr.Vinod Kumar, Dr.Vasundhara Saha and Dr.Asem Rangita Chanu while examining



the disability in para 2.4, 3 & 4 for CSE-2018, are apt to be noticed and may be reproduced for reference:

**“2.4 Examination of Multiple Disabled (MD) Candidates:**

| S.No. | Components of Multiple Disabilities                             | (I) Locomotor Disability including Cerebral Palsy, Leprosy Cured, Dwarfism, Acid Attack Victims | (II) Visually Impaired | (III) Hearing Impaired |
|-------|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------|------------------------|------------------------|
| 1     | Whether candidate has disability?<br><br>[Please write Yes/No]  | Yes                                                                                             | Yes                    | No                     |
| 2     | If answer of S.No.1 is yes, write percentage of disability      | 45%                                                                                             | 0%                     | Not Applicable         |
| 3     | Functional Classification of disability as mentioned in Table-I | One Arm One Leg (OAL)                                                                           |                        | Not Applicable         |

xx xx xx xx xx  
xx xx xx xx xx

3. **Mr.Sohan Lal meets the following physical requirements for discharge of his duties:**

1.....

2.....

.....

15.....

**Comments:** scarring of face, neck, shoulder, knee, hand with ptosis. He is able to write with right hand despite amputation. **Old DC showed locomotor disability 30% and visual disability 20%. Ophthalmology (RPC) opinion showed 0% visual disability.**

4. **Mr.Sohan Lal is found to be a LDGP candidate. He has a permanent disability of/in One Arm One Leg (OAL) [FC]. The percentage of disability in his case is 45% (forty-five Percent)."**



Further, the recommendations of the Central Standing Medical (Board), Safdarjung Hospital, New Delhi dated February 26, 2019 with reference to the Ophthalmology examination in Part D reflects as under:

*“Part-D*

***Recommendation of the Board:-***

I. The candidate is “fit for all services” (in case with special exemptions for height, expansion of chest etc., please specify the reason).

***Fit to apply ag. PH category.***

II. The candidate is unfit for all services” (please give specific reasons)

(a) .....

(b) .....

(c) .....

III. The candidate is “unfit” for ~~specific~~/all technical services (please give reasons)

(a) **OA OL 45%**

(b) **Others 0% (multiple disability)**

IV. The candidate is “temporarily unfit” for all services/specific or all technical services (please give reasons specific to recommendations)

(a) .....

(b) .....

(c) .....

**Note 1:** The candidate is advised to report to DoPT after correct of his/her medical conditions as mentioned above in point (iv) before the expiry of scheduled timeframe without fail for reevaluation of the specific condition. The maximum time provided for any correction cannot be more than six months from the date of uploading of his/her medical examination report on this Department’s website under any circumstances. Candidates not reporting within the indicated time are liable to be declared “:unfit” on medical grounds.”

13. A mere reference to the aforesaid medical reports, as detailed above, reveals that even the reports for CSE-2018 assessed the ‘visual disability’ of the petitioner as 0%, though the ‘locomotor disability’ was certified to be



45%. It is pertinent to observe that the detailed eye examination did not reflect any visual impairment on the basis of readings of visual acuity for purpose of being assessed as 'visual disability'. The said report has to be seen in entirety and the petitioner cannot be given the benefit by selectively reading the same to his benefit to claim 'multiple disability' category, contrary to the findings on record. The assertion by learned counsel for the petitioner that the said report was not challenged since the petitioner was stated to be eligible for 'non-technical services' is also without any merit, since the petitioner did not fall under the 'visual disability' category as per medical examination.

It may be noticed that medical reports categorically assessed the visual disability to be 0% (zero percent) and reference to 'multiple disability' in the medical reports for CSE-2018 is only in the context that the petitioner applied under the 'multiple disability' category. The true medical condition was known to the petitioner and the visual disability was correctly assessed as 'zero percent' even in the aforesaid report on examination through well advanced ophthalmological equipment. The difference in acuity readings to some extent during examination by competent Medical Boards cannot place the petitioner under 'multiple disability' category. The position also stands fortified by an independent assessment by a fresh Medical Board constituted by Dr. RML Hospital. The personal examinations undertaken by the petitioner at Jaipur cannot be given much credence as there is nothing on record to indicate, if the petitioner had disclosed the result of examination of



competent Medical Boards to concerned Specialists.

**14.** There is no dispute as to the proposition of law as referred in *Avni Prakash* (supra) and *Vishv Mohan* (supra) relied upon by learned counsel for the petitioner. However, the same are distinguishable in the facts and circumstances of the present case.

**15.** We may also mention that in order to explore the possibility of consideration of the petitioner on merits under the 'single disability' category, an officer from DoPT had been requested to appear. However, we are informed that it is too late in the day, to consider the petitioner under 'single disability' category, since the petitioner did not apply under the said category and the candidates who applied under the said category already stand appointed as per merit. Further, there is no provision for change of category of 'disability' from 'multiple disability' to 'single disability' under the Rules.

**16.** For the foregoing reasons, we do not find any merit in the petition. Writ Petition is accordingly dismissed. No orders as to costs. Pending applications, if any, also stand disposed of.

**(ANOOP KUMAR MENDIRATTA)**  
**JUDGE**

**(V. KAMESWAR RAO)**  
**JUDGE**

**SEPTEMBER 06, 2023/sd**