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

Judgment delivered on: 04.09.2023

+ W.P.(C) 11698/2023 & CM APPL. 45660/2023 & CM APPL. 45661/2023

DHANANJAY YADAV

..... Petitioner

versus

UNION OF INDIA AND OTHERS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Brijesh Yadav, Advocate

For the Respondents: Mr. Anshuman, Senior Panel Counsel with Ms. Priya Mishra and Mr. Piyush Ahluwalia, Advocates with Dr. Narendra Prakash Kohli, Comdt. And Mr. Hemendra Singh, BSF

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks quashing of Review Medical Examination Result dated 14.08.2023 whereby the petitioner has been declared medically unfit on the ground of corrective surgery for Ptosis done on 17.06.2023.

2. Petitioner had applied for promotion to the post of Assistant Commandant through Limited Departmental Competitive Examination for



the years 2018 to 2022.

3. Petitioner was medically examined on 01.06.2023 and was declared unfit on the ground that he suffers from Ptosis in left eye. He applied for review medical examination which was conducted on 02.06.2023. He was once again declared unfit for the same reason.

4. Petitioner filed a petition before this Court being W.P. (C) 9517/2023 which was disposed of on 11.08.2023 directing the respondents to conduct a fresh medical examination of the petitioner.

5. Subject direction was issued in view of the fact that the Guidelines for Recruitment Medical Examination in Central Armed Police Force and Assam Rifles stipulated that mild ptosis of less than 2 mm if not associated with any sign aberrant regeneration or head tilt and not interfering with vision should not be a cause for rejection. It was noticed by this Court that the medical examination report and the review medical examination report did not advert to the fact as to whether the Ptosis with which the petitioner suffer, interfered with his vision or not. Accordingly, a fresh medical examination was directed to be conducted in terms of para III 2 (i) of the said guidelines.

6. Pursuant thereto, petitioner has been examined by the Special Review Medical Examination Board which has found that corrective surgery was undertaken by the petitioner on 17.06.2023.



7. Reference may once again be had to para III 2 (i) of the guidelines which read as under:-

“III. General External Examination of the Eyes and their Adnexae

2. External Examination: In external examination for direct entry officers, where magnification is required, the examiner should use Corneal loupe or an Ophthalmoscope with a plus 20-dioptre lens in the aperture or a Slit-lamp. Recruiting medical officers will use a torch without magnification.

i) Lids, lashes and lacrimal apparatus. Any ptosis, blepharitis, or abnormal condition of the lachrymal apparatus should be noted. Ptosis interfering with vision or visual field is a cause for rejection till surgical correction remain successful for a period of six months. Mild ptosis of less than 2 mm if not associated with any signs aberrant regeneration or head tilt and not interfering with vision should not be a cause for rejection. Candidates with uncontrollable blepharitis, particularly with loss of eyelashes, are generally unsuitable and should be rejected. Naso-lacrimal occlusion producing epiphora or a mucocele entails rejection, unless surgery produces relief lasting for a minimum of six months. This is to be confirmed with syringing prior to endorsing fitness.”

(underlining supplied)

8. The guidelines prescribe that Ptosis interfering with visual field is a cause for rejection till surgical correction remains successful for a period of six months.

9. Said stipulation implies that petitioner should have undergone surgical correction at least six months prior to the medical examination for the



Medical Board to determine as to whether the correction remains successful for a period of six months or not.

10. In the instant case, petitioner was medically examined on 01.06.2023 and then on 02.06.2023 by which time petitioner had not undergone the surgery. Petitioner underwent corrective surgery on 17.06.2023. Thereafter petitioner has been examined by the Review Medical Examination Board on 14.08.2023. Board of officers had opined that since the requisite condition is that the corrective surgery should have remained successful for six months for fitness and said period of six months had not elapsed from date of surgery, petitioner is unfit.

11. We are of the view that the view taken by the Board of Officers examining the petitioner pursuant to our directions by judgment dated 11.08.2023 in W.P. (C) No. 9517/2023 has not committed any error. Petitioner has undergone corrective surgery and six months' period has not elapsed for the officers to determine as to whether the corrective surgery is successful and remains successful for a period of six months as required under the rules.

12. We are further unable to accept the contention of learned counsel for the petitioner that the respondents should defer further proceedings and re-examine the petitioner after a period of six months from the date of surgery. In case such an interpretation or relaxation were to be given to the petitioner, the recruitment process would not end and would have to be deferred for a period of six months. There is further no certainty that the corrective surgery



would still remain successful after a period of six months or not.

13. Since petitioner knew that he was suffering from an ailment, petitioner should have undergone the corrective surgery at least six months prior to the first medical examination which was held on 01.06.2023.

14. In that view of the matter, we find no infirmity or error having been committed by the respondent in declaring the petitioner unfit.

15. We find no merit in the petition. The petition is consequently dismissed.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

SEPTEMBER 4, 2023

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