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

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Judgment delivered on: 25.07.2023

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**W.P. (C) 14839/2021**

VIKAS SINGH

.... PETITIONER

Versus

UNION OF INDIA MINISTRY OF HOME AFFAIRS & ANR

.... RESPONDENTS

**Advocates who appeared in this case:**

For the Petitioner: Mr. Joy P. Varghese, Mr. Shahid Akhtar and Mr. Upmanyu Sharma, Advocates.

For the Respondent: Mr. T.P. Singh, Senior Central Government Standing Counsel.

**CORAM:-**

**HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner seeks quashing of the order dated 26.07.2021, whereby petitioner has been declared unfit.
2. Petitioner had applied for appointment to the post of Constable/GD with the Indo-Tibetan Border Police. Petitioner cleared

the physical test, however, was rejected in the medical examination on the ground that the petitioner had Dextrocardia (heart on right side, instead of left). The Review Medical Examination Board also confirmed the same.

3. Petitioner thereafter approached this Court in W.P. (C) 11774/2019, which was disposed of by order dated 28.01.2021, directing the respondents to constitute a review medical board and opine as to whether petitioner's congenital abnormality, namely, Dextrocardia impedes the efficient discharge of his training/duties. Petitioner was directed to appear before the Board at the Referral Hospital ITBP, Greater Noida. The Review Medical Examination Board opined as under:-

*“Patient was evaluated and he is not having dextrocardia, there is eventration of diaphragm with mediastinal shift. Intrathoracic displacement of the abdominal content (left lobe of liver, spleen, fundus, body, Jejunal loops, distal V3 transverse colon splenic flexure).*

*Congenital anomaly which is unlikely to improve. It may worsen in stressful condition of Central Armed Police Force.”*

4. In view of the anomalies now found, petitioner has been declared to be unfit.

5. Learned counsel for petitioner submits that the respondents could not have examined the petitioner for any other ailment as the reference was only for evaluating as to whether the petitioner has Dextrocardia. He further submits that there is no clinical examination

to confirm that the petitioner suffers from congenital anomaly as has been opined by the Board.

6. We are unable to accept the contention of the petitioner for the reason that petitioner has been examined by a Medical Board at the Referral Hospital of ITBP by three experts and a thorough examination of the petitioner has revealed that though petitioner does not suffer from Dextrocardia, there is other congenital anomaly which as per the Board is unlikely to improve and may worsen in stressful conditions of Central Armed Police Force.

7. We also find no reason to disbelieve the report or any merit in the contention of learned counsel for petitioner that there is no clinical evidence to support the findings. The Medical Board, which has examined the petitioner, has conducted a thorough examination and given its report. Petitioner has relied upon a report from the All India Institute of Medical Sciences, Rishikesh to contend that the report given by the Review Medical Examination Board is incorrect. Though a report of the private hospital will not override the report of a Medical Board as the parameters and fitness level required for serving the force is different from those required in civil employment, All India Institute of Medical Sciences, Rishikesh has examined the petitioner for his cardio issues, which even as per the Review Medical Examination Board, there is none. There is no report by the All India Institute of Medical Sciences, Rishikesh with regard to the congenital anomalies mentioned in the report of the Review Medical

Examination Board.

8. Since petitioner suffers from a congenital anomaly which makes him unfit for the post, we are of the view that there is no merit in the petition.

9. The writ petition is accordingly dismissed.

**SANJEEV SACHDEVA, J**

**MANOJ JAIN, J**

**JULY 25, 2023/NA**