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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: December 19, 2023

+ W.P.(C) 16363/2023

ATUL RANJAN

..... Petitioner

Through: Mr. Neeraj Shekhar, Dr. Sumit Kumar
and Mr. Karan Tomar, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)**CM APPL. 65806/2023**

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The challenge in this petition is to the order dated July 04, 2023 passed by the Central Administrative Tribunal ('Tribunal', in short), Principal Bench, New Delhi in O.A. No. 3057/2021 titled as *Atul Ranjan vs. UOI & Ors.*, whereby the Tribunal has dismissed the O.A. filed by the petitioner by stating in paragraphs 30 to 32 as under :

“30. Let us break into two parts the reliefs the applicant seeks. The first relief that he seeks from us is quashing the medical examination report issued by the Medical Board of AIIMS. We are not inclined to interfere in the



same. Neither do we have the professional competence to question the assessment and wisdom of medical experts nor do we find any illegality or arbitrariness in the same as alleged by the applicant. Secondly, the applicant seeks re-evaluation by a fresh medical board at any hospital other than AIIMS, to evaluate the extent of speech and language disability. We hold the view that allowing this prayer would amount to acquiescing with the applicant in questioning the integrity and professionalism of the medical experts of the AIIMS. Moreover, as far as speech and language disability is concerned, a reference to the same has been made by the medical expert of Safdarjung Hospital. Thirdly, the applicant seeks a direction to consider the certificate of Loknayak Jaiprakash Hospital, Patna and the National Institute of Speech and Hearing Disability. We find some merit in this contention, but at the same time, we also find that while contesting this OA, adequate justification has come forth from the respondents, especially the argument that the applicant's case has to be strictly in terms of the provisions of CSE 2020 and Medical Examination of Candidates Rules/Notice as notified vide communication dated 14.07.2021. We would not be comfortable with the situation where candidates are allowed to choose the agency/organization as per their preference for their medical examination. Moreover, vide the confidential communication dated 25.10.2021, the Professor and Head of the Department of Physical Medicine and Rehabilitation, AIIMS, New Delhi, has given a categorical conclusion that the applicant along with another candidate Ms. Preeti Beniwal belongs to locomotor disability category and not multiple disability category. This communication has also discussed that the document with respect to the applicant states absence of vocal cord palsy and an expert opinion from ENT Department, has clearly stated that "Patient does not come under speech disability criteria". Even if we



were to consider the speech disability criteria, we are to be guided by the provisions of Section 34(1) of the RPWD Act and the said Section unambiguously defines multiple disabilities. The said section has already been reproduced in Para 10 of this judgment, and no violation of the provisions of this section has been demonstrated.

31. While we can appreciate that the applicant may be nursing a genuine grievance that despite success in CSE, he is being deprived of the benefit of reservation under the multiple disability category, we are acutely aware of the limits of our power. As stated earlier, we have meticulously gone through the pleadings and documents on record, besides extensive hearing to the learned counsels. We do not find any cause to raise even an iota of doubt upon the medical reports of AIIMS and the categorical opinion given by the Head of Department. We cannot even consider pointing any finger of arbitrariness or subjectivity towards the medical experts. Further, we cannot and should not also draw an exception in the case of the applicant as his case is to be squarely governed by the relevant rules and instructions governing the CSE and the associated medical examination of the candidate.

32. In the light of the facts and circumstances elaborately discussed and detailed above, and after careful consideration, we are of the opinion that the OA does not call for any interference and is accordingly dismissed. Accordingly, MA No. 952/2023 also stands disposed of. No costs."

4. The submission of learned counsel for the petitioner is that the petitioner appeared in the Civil Service Examination (CSE), 2020 and was successful in the said examination for appointment in one of the Civil Services under the category of Persons with Benchmark Disability (PwBD). Within the category of PwBD, the petitioner claims that he falls under the



category of Multiple Disabilities (MD) and accordingly, he should have been appointed to a post reserved in the appropriate civil services in sub-category Multiple Disabilities (MD). However, his claim for consideration for appointment was denied.

5. Aggrieved by the same, the petitioner approached the Tribunal.

6. It is a matter of record that the petitioner was examined by a Medical Board constituted by All India Institute of Medical Sciences, New Delhi (AIIMS, New Delhi) and report was submitted, wherein, it is stated that he belongs to Locomotor Disability (and not Multiple Disability Category). It is also stated that he does not come under Speech Disability criteria.

7. Thereafter, the petitioner availed the provision of Appellate Medical Board, wherein, it is stated that the petitioner is a candidate with Locomotor Disability and is not under Multiple Disability Category. He has a permanent disability due to involvement of his Both Arms (BA) and Spine and percentage of his disability is 90%, with regard to his speech is concerned, it is held that the petitioner is having hoarseness due to unilateral vocal cord palsy and does not fit into the category of Persons with Multiple Disability.

8. The submission of learned counsel for the petitioner is, one Dr. Sanjay Wadhwa, who was part of the initial Medical Board should not have been part of the Appellate Medical Board.

9. We are unable to accept such a plea, for the simple reason that the petitioner had submitted to the jurisdiction of the Appellate Medical Board, which consisted of Dr. Sanjay Wadhwa, who is the Professor and Head, Department of Physical Medicine & Rehabilitation, AIIMS, New Delhi. That apart, the reason for his exclusion has not been explained to us.

10. It is also not the case of the petitioner that, because of presence of



Dr. Sanjay Wadhwa, the Medical Board has given the report against the petitioner.

11. That apart, it is the submission that, three hospitals have given medical opinion in favour of the petitioner and as such, the petitioner must be relegated to a Medical Board other than AIIMS, New Delhi.

12. We are unable to accept such a plea for the reasons as stated by the Tribunal in the impugned order, more specifically in paragraph 30, which we have already reproduced above.

13. One of the submissions of learned counsel for the petitioner is that the initial Medical Board and Appellate Medical Board have not recorded the percentage of speech disability of petitioner.

14. We note that the Medical Boards have recorded the Locomotor Disability of the petitioner as 90% and also his case is not of a Multiple Disability. In other words, except Locomotor Disability there is no other disability.

15. We are of the view that the Tribunal is justified in the facts to dismiss the O.A.

16. The petition being without merit is dismissed.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

DECEMBER 19, 2023/R