



CWP-19581-2011

-1-

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

110

CWP-19581-2011

Date of decision: 09.05.2024

PARMANAND AND ANOTHER

...PETITIONERS

Vs.

DGP CRPF AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Vipin Pal Yadav, Advocate
for the petitioners.

Mr. S.K. Sharma, Senior Panel Counsel
for the respondents.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of communications dated 06.09.2011 whereby their candidature for the post of Sweeper has been declined.

2. The petitioners, pursuant to an advertisement applied for the post of Constable (Sweeper). They were subjected to medical examination wherein they were declared medically unfit. They applied for Review Medical Board. They were again medically examined by Review Medical Board which declared them unfit.

3. Learned counsel for the petitioners *inter alia* contends that the petitioners participated in recruitment process conducted by respondents for the post of Sweeper. After qualifying the physical test and written examination, they were subjected to medical examination at GC, CRPF, Imphal wherein they were



CWP-19581-2011

-2-

declared medically unfit on the grounds of 'Defective Distance Vision' and 'Cubitus Vulgus'. They got medically examined at OPD of Regional Institute of Medical Science, Lamphel, Imphal and were declared medically fit. Pursuant thereto, they filed appeals and were subjected to Review Medical Examination wherein they were again declared unfit on the same grounds.

4. Per contra, learned counsel for the respondents submits that petitioners were twice subjected to medical examination and same deficiencies were found. The respondents are bound by instructions. The petitioners being medically unfit and having not complied with the conditions of recruitment process cannot be selected for the post of Sweeper.

5. A Division Bench of this Court vide order dated 11.02.2020 passed in LPA No. 1017 of 2017 titled as "Roop Singh vs. Union of India and others" has held that this Court cannot sit in appeal over the findings of the medical authorities which have rejected candidature of the applicant on two occasions. The relevant extracts of the order dated 11.02.2020 read as:

"After having heard learned counsel for the parties, we are of the Considered opinion that the present Letters Patent deserves to be dismissed. Admittedly, the appellant applied for the post in question and in the said recruitment process, he was declared qualified in physical efficiency test i.e. PET/PST at TPT Bn, Behlana Camp, ITBP, Chandigarh as also qualified written examination by scoring 43 marks out of 50 marks. Thereafter, he was called for practical (Skill) Test and he was declared qualified having scored 36 marks out of 50 marks. The next and last stage for selection was documentation and Detailed Medical Examination for which the petitioner appeared in the event at Composite Hospital, ITBP, Chandigarh on 19.07.2016 and was declared "UNFIT" on account of the reasons mentioned above. Undisputedly, it was a case of appointment to the post of constable (Driver) in ITBP



wherein the fittest and most suitable people should be selected from the long queue of applicants fighting to win a berth in the para-military forces. The highest standards of physical standards are expected due to the arduous nature of duties and the ITBP's Medical Authorities are the best judge of its own needs as to who should be recruited to guard our frontiers. This Court cannot sit in appeal over the findings of the Medical authorities which have rejected the candidature of the appellant on two occasions as discussed earlier. There is no reason to differ from the finding recorded by the learned Single Judge.”

6. A Division Bench of this Court while adverting with similar issue in LPA No.871 of 2022 (O&M) titled as ‘Sumit Vs. Union of India’ decided on 24.04.2023 has held that once the medical experts have examined and reexamined the appellant, this Court is not required to sit over the same and adjudicate upon the correctness of the opinion (s) expressed by the Medical Experts especially when this Court does not have expertise to decide as to whether the opinion (s) of the expert are right or wrong. The relevant extracts of the judgment read as:

“Having heard learned counsel for the parties, we are of the considered view that in the facts and circumstances of the case, no illegality or infirmity can be found in the impugned order passed by the learned Single Judge. The appellant has been examined twice firstly by the Recruitment Medical Board and thereafter by the Appeal Medical Board which has also obtained opinion from the Command Hospital, Eastern Command, Kolkata and thereafter taken a decision in the matter. All medical experts have found the blood pressure and other parameters not to be in consonance with those prescribed.



We are also in agreement with the opinion expressed by the learned Single Judge to the effect that once the medical experts have examined and reexamined the appellant's case thoroughly, this Court is not required to sit over the same and adjudicate upon the correctness of the opinion(s) expressed by the Medical Experts especially when this Court does not have the expertise to decide as to whether the opinion(s) of the Medical Experts are right or wrong. The process of medical examination cannot be converted into an endless process and therefore, inality to the opinion of the Appellate Medical Board has rightly been prescribed.

As far as the reliance placed by learned counsel for the appellant on the order passed by this Court in Letters Patent Appeal No. 635 of 2018 is concerned, it is evident that the said appeal was decided on the conjoint consensus statement made by the parties and therefore, it was an order passed on the basis of the consent given by the parties and does not form any binding precedent. In that case as the matter had been allowed by the learned Single Judge taking into account the medical reports of an hospital, which was not part of the medical set up of the respondents, and inspite of the negative reports being given by the Recruitment Medical Board as well as the Appeal Medical Board and therefore, the Union of India had made a statement that they will get further examination done from the Army Hospital (Research & Referral) New Delhi, a defence hospital and not a private one, to which the appellant therein had agreed and on the basis of the statements made by the parties with consent, the appeal was disposed of. In such circumstances, the reliance placed by learned counsel for the appellant on the order passed in LPA No. 635 of 2018 is misconceived. In the instant case, there is concurrent opinion given by the Medical Experts of the Recruitment Medical Board as well as the



Appeal Medical Board that the appellant is unfit for appointment in Indian Air Force.”

7. There is another aspect of the matter, the petitioners had applied for the post of Constables (Sweepers) in 2010. A period of more than 13 years has already passed away. Thus, at this belated stage, especially when petitioners were declared medically unfit by Medical Board as well as Review Medical Board, this Court does not find it appropriate to invoke its extraordinary writ jurisdiction, thus, the petition is hereby dismissed.

09.05.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No