

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CWP-23339-2016
Date of Decision : 24.04.2024

MANJEET SINGH

... PETITIONER

Versus

UNION OF INDIA ANDORS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.S.K.Choudhary, Advocate
for the petitioner.

Ms. Gehna Vaishnavi, Central Govt. Counsel
for the respondents-UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of communication dated 12.09.2016 (Annexure P-9) whereby his candidature has been cancelled on the medical grounds.
2. The petitioner pursuant to advertisement applied for the post of Driver Mechanical Transport (Ordinary Grade). He was medically examined and found unfit. On his request, he was 2nd time medically examined and found unfit. 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 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 are 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.”

3. On being confronted with afore-cited judgment, counsel for the petitioner expressed his inability to controvert the applicability of aforesaid judgment to the present case.

4. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

24.04.2024
anju

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