

2024:PHHC:061465

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

107

CWP-21950-2020
Date of decision: 03.05.2024

SAMEER SANGWAN

....PETITIONER

Vs.

UNION OF INDIA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sumit Sangwan, Advocate
 for the petitioner.

 Mr. Sunil Kumar Sharma, Senior Panel Counsel
 for the respondent-Union of India.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of certificates dated 04.11.2020 and 01.12.2020 (Annexurs P-3 and P-4) whereby petitioner has been declared medically unfit.
2. The petitioner pursuant to advertisement applied for the post of Airmen Group-X. He cleared written test as well as physical test, however, he was declared medically unfit on account of DNS (RT) Airway Obliterated. He preferred an appeal. The Appellate Authority re-examined him and declared him medically unfit.
3. Mr. Sumit Sangwan, Advocate submits that in the first medical examination, he was unfit on account of DNS (RT), whereas in the re-examination, he was declared unfit on account of DNS (LT) Airway Obliterated. This creates doubt on the opinion of medical staff.
4. Mr. Sunil Kumar Sharma, Senior Panel Counsel submits that petitioner after re-examination by Review Medical Board might have undergone

Eye Surgery and respondent has to consider fitness at the time of first and second examination. He further submits that a period of 3 years has passed away, thus, at this belated stage, claim of the petitioner may not be considered.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. The contention of respondent that a period of 3 years from the date of selection of other candidates has passed away cannot be countenanced because petitioner approached this Court in December, 2020, thus, the petitioner is not at fault. His claim cannot be thrown to winds on the sole ground that there is delay in adjudication of his claim.

7. The petitioner, during the course of hearing has agreed to deposit Rs. 50,000/- as cost for his re-examination. The petitioner was twice examined by competent authorities, however, in view of his claim and offer to deposit cost of Rs. 50,000/-, this Court finds it appropriate to direct the respondent to conduct fresh medical examination at Command Hospital, Chandi Mandir. The petitioner shall appear before Medical Officer, Command Hospital, Chandi Mandir on 10.05.2024 along with demand draft of Rs. 50,000/- in favour of Air Force Public Fund Account, Air Force Station, New Delhi. If the claim of petitioner is found correct, the said amount would be refunded to him. It is further made clear that if the petitioner has undergone surgery beyond the period contemplated in the instructions, the respondent would be at liberty to reject his claim.

8. Disposed of.

03.05.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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