



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

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Date of decision: February 7, 2024

+ W.P.(C) 1762/2024

(42) SACHIN KUMAR

..... Petitioner

Through: Mr. Nikunj Arora, Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Farman Ali, Sr. PC with
Ms. Geetanjali Tyagi, GP with
Ms. Usha Jamnal and
Mr. Krishan Kumar, Advs. for UOI

AND

+ W.P.(C) 1789/2024

(44) DNYANESHWAR DEVARSHI

..... Petitioner

Through: Mr. Nikunj Arora, Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Ms. Ayshreya Pratap Singh Rudy,
Sr. PC with Ms. Geetanjali Tyagi, GP
with Ms. Usha Jamnal, Adv. for UOI

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE



V. KAMESWAR RAO, J. (ORAL)

CM APPL. 7365/2024 in W.P.(C) 1762/2024

CM APPL. 7468/2024 in W.P.(C) 1789/2024

Exemption allowed subject to all just exceptions.

Applications are disposed of.

W.P.(C) 1762/2024

W.P.(C) 1789/2024

1. These petitions have been filed by the petitioners with the following prayers:-

“In view of the above, it is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

i. Issue a Writ of Certiorari for quashing of the letters dated 24.12.2023 and 26.12.2023 whereby the Respondents have rejected the candidature of the Petitioner on ground of having tattoo present on the right forearm; and

ii. Issue a Writ of Mandamus directing the Respondents to constitute a review medical board in consonance with the judgments passed by this Hon'ble Court in Nihal Singh vs. Union of India and Ors 2023 SCC Online Del 3264, Pradeep vs. Union of India and Ors 2022 SCC Online DEL 1497, Shubham Sharma vs. Union of India and Ors 2022 SCC Online Del 3726 and Vineet Kumar Meena v. Union of India and Ors 2022 SCC Online Del 3939 to assess the condition of the Petitioner and if found fit appoint him to the Post of Head Constable (Min) with all consequential benefits; and

(iii) Pass any such orders as the Hon'ble Court may deem fit in the light of above mentioned facts and circumstances of the case.”

2. There is no dispute that the Medical Board and Review Medical Board have found the petitioners unfit for the reason that the petitioners have a Tattoo on the right forearm.



3. The submission of Mr. Arora, learned counsel for the petitioners is that the petitioners have got removed the Tattoo through Laser Surgery in the month of December 2023.

4. According to him, the scar on the right forearm is not visible and there is no reason why the petitioners should not be appointed to the post(s) for which they have applied. In other words, it is his submission that there is no ground for the respondents to disqualify the petitioners. In support of his submission, he has relied upon the following judgments of this Court to contend that in similar circumstances, this Court has granted the relief to the petitioners therein:-

- (i) *Nihal Singh v. Union of India and Another, 2023 SCC OnLine Del 3264;*
- (ii) *Pradeep v. Union of India and Others, 2022 SCC OnLine Del 1497;*
- (iii) *Shubham Sharma v. Union of India and Others, 2022 SCC OnLine Del 3726; and*
- (iv) *Vineet Kumar Meena v. Union of India and Others, 2022 SCC OnLine Del 3939.*

5. Whereas, it is the submission of learned counsel for the respondents that the relevant guidelines under consideration i.e., ‘*Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, 2015*’, (‘Guidelines’ for short) completely governs the cases of the petitioners, and as such the impugned action/orders, is/are justified.

6. Having heard the learned counsel for the parties, we deem it appropriate to dispose of the writ petitions by directing the respondents to get examine the right forearm of the petitioners through a newly constituted Medical Board in accordance with Guidelines specifically, Clause 3 of the



Guidelines, under the heading ‘*Hand and fingers*’, issued by the respondents and decide whether the petitioners are fit for appointment. It is directed that the examination by the Board shall be undertaken within a period of three weeks from today as an outer limit. The respondents are also directed to convey the outcome of the fresh Medical Board to the petitioners. It goes without saying that if the petitioners are found fit, further action shall be taken in accordance with law.

7. The writ petition is allowed and disposed of. No Costs.

CM APPL. 7364/2024 in W.P.(C) 1762/2024

CM APPL. 7467/2024 in W.P.(C) 1789/2024

Dismissed as infructuous.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

FEBRUARY 07, 2024/aky