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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3363/2024 & CM APPL. 13837/2024 –Int. dir.

AJAY KUMAR

.....Petitioner

Through: Ms.Saahila Lamba, Adv.

versus

UNION OF INDIA & ORS.

.....Respondent

Through: Mr.Chiranjiv Kumar, Ms.Archana
Kumari, Mr.Mukesh Sachdeva, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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16.07.2024

1. The petitioner, who is aspiring to join the Indo-Tibetan Border Police Force as a Constable(Tailor) pursuant to the selection process conducted in terms of advertisement issued in 2022, has approached this Court assailing the findings of the Review Medical Board made on 17.11.2023, wherein he was declared medically unfit on the ground of an unhealed scar on his right hand.
2. Learned counsel for the petitioner submits that despite being medically fit in every aspect, the petitioner was declared as unfit both by the Initial Medical Board as also by the Review Medical Board on account of an unhealed scar resulting from removal of a tattoo on his right hand. By placing reliance on the decision of a Co-ordinate Bench of this Court in *Akshay Choudhary v. Union of India*,



Ministry of Home Affairs & Ors. [W.P.(C)5602/2024], she submits that this Court while dealing with a similar situation where the candidate had been declared as medically unfit on account of an unhealed scar from a tattoo removal surgery, opined that as the scar was likely to heal with passage of time, the candidate may be examined by a fresh Medical Board. She further submits that the petitioner will neither claim retrospective seniority nor any other consequential seniority for the said post. She, therefore, prays that the writ petition be allowed by directing the respondents to conduct a fresh medical examination of the petitioner.

3. Learned counsel for the respondents fairly does not dispute that the facts of the present case are similar to that of **Akshay Choudhary(supra)**. Further, on instructions, he submits that in the peculiar circumstances of the present case, where the petitioner belongs to the OBC category and there are still three unfilled vacancies of Constable (Tailor) in the OBC category, the respondents are willing to conduct a fresh medical examination of the petitioner to determine his medical fitness.
4. In the light of this fair stand taken by the respondents, we allow the writ petition by directing the respondents to get the petitioner medically re-examined by a fresh medical board within a period of four weeks. In case, the petitioner is found medically fit, he will, within four weeks, be granted appointment to the post of Constable (Tailor), subject to fulfilling all other eligibility criteria. As undertaken by the petitioner, he will neither claim retrospective seniority nor any other consequential seniority.



5. The writ petition along with pending application stands disposed of in the aforesaid terms.

REKHA PALLI, J

SHALINDER KAUR, J

JULY 16, 2024

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