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

+ W.P.(C) 4144/2024
PIYUSH KUMAR

..... Petitioner

Through: Mr. Prakhar Bhatnagar and Mr. Mohit Tyagi, Advs. alongwith petitioner in person

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Rajnish Kumar, SPC

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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19.03.2024

CM APPL. 16939/2024

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 4144/2024 & CM APPL. 16940/2024 and CM APPL. 16941/2024

1. The challenge in this petition is to the conclusion drawn by the Medical Board and the Review Medical Board treating the petitioner 'Unfit' on the ground of 'Extensive Angiomatous Lesion on right side of chest, back, arm and forearm'.

2. The submission of the learned counsel for the petitioner is that after the Review Medical Examination, the BSF itself has taken the petitioner and other candidates to Mathuradas Mathur Chikitsalya, Jodhpur which has given its report as under:-



“PORT WINE STAIN

IT IS A TYPE OF HEMANGIOMA SINCE BIRTH
(VASCULAR ANAMOLY).

WILL NOT AFFECT PHYSICALLY IN THE ROUTINE
WORK.

MAY BE TREATED BY POL (PULSE DYE LASER), IF
REQUIRED.”

3. Learned counsel for the petitioner submits that this Report of the Mathuradas Mathur Chikitsalya, Jodhpur is in favour of the petitioner inasmuch as the Doctor therein has clearly held that the birthmark of the petitioner shall not affect physically in the routine work.
4. We are not in agreement with the submission of the learned counsel for the petitioner. The recommendation is that the same shall not affect the routine work. He did not say that the petitioner is fit to discharge the duties as required to be done by a BSF Officer.
5. The scope of judicial review in a case of this nature is very limited. Surely this Court will not substitute the opinion of the Medical Board by its own opinion and grant fitness to the petitioner. Even the submission of the learned counsel for the petitioner that he may be referred to Army Hospital, (R & R) is not appealing for the reason that no ground has been made by the petitioner to show any discrepancy in the conclusion drawn by the Medical Board and the Review Medical Board or Mathuradas Mathur Chikitsalya, Jodhpur.
6. This Court in the case of ***Rohit Singh Baghel vs Union of India & Ors*** in W.P.(C) 3426/2024 while dealing with a similar issue has held as



under:-

13. Further, since this Court finds that neither of them is vitiated by any element of biasness, arbitrariness or mala fide, there is no occasion and/ or reason for doubting either of them. In fact, as per the settled position of law, this Court, actually Courts, ought to be circumspect, wary and watchful in dwelling into such matters of correctness or the analysis or the appraisal thereof, especially when it is qua recruitment into the Armed Forces, as also when they are involving opinion(s) rendered by specialized experts in their fields.

7. The petition, alongwith the pending applications, is dismissed.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

MARCH 19, 2024/rr