



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

Judgment Reserved on: 19.03.2024

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Judgment Pronounced on: 22.03.2024

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W.P.(C) 10671/2023

VIKRAM CHAHAR

..... Petitioner

Through: Mr. K. K. Sharma, Mr. Mohit Sharma, Mr. Harshit Aggarwal, Mr. Sanjay Soni and Mr. Rajat Rajput, Advs.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms. Sarika Singh, SPC with Ms. Vidhi Gupta, Mr. Rahul Singh and Mr. Vikarn Singh, Advs. with Mr. R. N. Parikh, CRPF
Mr. Sorabh Bhushan/Law Officer CRPF

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

SAURABH BANERJEE, J.

1. The petitioner joined CRPF on 24.04.2018 as a Constable (GD) under the Sports Quota (Judo, below 90kg weight category). Since then, he has been participating and excelling in multiple tournaments. Later, in the list of vacancies for the post of Head Constable/ General Duty under the Sports Quota 2022 announced by the respondent no.2 on 21.11.2022, there were three vacancies allocated for below 90kg weight category.



2. After clearing multiple stages, on 23.01.2023, the petitioner's Detailed Medical Examination¹ was conducted by the CMO (SG GC-2nd Ajmer), where he was declared '*Unfit*', primarily, due to being overweight and X-Ray chest cardiac shadow enlarged.
3. In an appeal filed by the petitioner to the Review Medical Board² thereagainst, the RME once again declared him unfit for being overweight on 25.01.2023.
4. Thereafter, multiple representations sent by the petitioner thereto proved to be of no avail.
5. Hence, vide the present petition, the petitioner seeks quashing of Memorandum dated 23.01.2023 and 25.01.2023 of the DME board and RME board respectively, whereby the petitioner was declared '*Unfit*' due to being overweight and further a direction to the respondents for considering his candidature afresh.
6. Learned counsel for the petitioner put forth his submissions and contended that the decision to deem the petitioner '*Unfit*' for the position of Head Constable by the respondents is unjust and arbitrary. He submitted that the memorandum declaring the petitioner unfit lacks legal basis and is violative of principles of natural justice. Additionally, he asserted that the petitioner has consistently maintained weight and performance in judo competitions. Lastly, he contended that the failure of the respondents to consider the nuances of weight categories in sports and their selective objection to the weight of the petitioner is discriminatory and unjust.

¹ Hereinafter referred to as '**DME**'.

² Hereinafter referred to as '**RME**'.



7. Learned SPC for the respondents on the contrary submitted that the vacancies for the relevant category remain unfilled due to lack of eligible candidates. She further submitted that both the DME and the RME constituted by the respondents comprise of specialised experts in their respective fields who are the final Medical Authority for determining the standard of recruitment of any candidate like the petitioner herein. It is under these circumstances that she lastly submitted that in matters involving adjudication of medical condition of any candidate like the petitioner for recruitment, there is hardly any scope for interference by this Court.

8. Based on what is borne out after hearing the learned counsels appearing for all the parties as also on going through the documents on record, we find that there is no qualm about the fact that the terms and conditions contained in the Manual being the gospel when it comes to recruitment of any candidate by the respondents like the petitioner herein, are the guiding principles for the respondents to follow and abide. As such both, the petitioner herein and the respondents, are bound by the said Manual.

9. In the present case, though both the DME and the RME, being constituted by the respondents comprising of specialized experts in their respective fields, have rendered their valuable opinion independently on two respective occasions and declared the petitioner medically 'Unfit', however, as there is no dispute qua the fact that as the petitioner was 'Fit' he has been playing and performing at the National level. For that, as the petitioner was 'Fit' for all purposes and despite that both the DME and the RME have declared him 'Unfit' raises a doubt/ concern in our minds.



10. Accordingly, keeping in view the peculiar facts and circumstances of the case and without commenting on the abovesaid reports and the submission of learned counsel for the parties, in the interest of justice, we hereby direct the Incharge of RR Hospital, Delhi to constitute a fresh Medical Board comprising of experts, within a period of two months. The said freshly constituted Medical Board of RR Hospital shall also invite the Doctors who participated/ conducted in the RME of the petitioner.

11. Upon constitution of the freshly constituted Medical Board by the RR Hospital, the respondents shall intimate to the petitioner about the schedule of the medical examination including the date of said examination at least one week prior thereto and thence communicate the final result/ report thereof to the petitioner within one week thereafter.

12. We clarify that the aforesaid final result/ report of the freshly constituted Medical Board, RR Hospital shall be final and binding upon the parties. In case of the petitioner being declared 'Fit' by the said freshly constituted Medical Board, RR Hospital, the respondents are directed to take appropriate steps qua his recruitment in accordance with law.

13. With the aforesaid directions, the present petition is accordingly disposed of.

SAURABH BANERJEE, J.

V. KAMESWAR RAO, J.

MARCH 22, 2024/rr