



\$~62 & 63

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

+ W.P.(C) 9479/2024 & CM APPL. 38930/2024 –Stay

+ W.P.(C) 9488/2024 & CM APPL. 38944/2024 –Stay

PANKAJ KUMAR SINGH

MOHIT BHARDWAJ

.....Petitioners

Through: Mr.Rajesh Srivastava, Mr.Rajesh K
Singh, Mr.R.F.Verma & Ms.Deepika Singh, Advs.

versus

CENTRAL INDUSTRIAL SECURITY FORCE AND ANR

.....Respondents

Through: Mr.Kushagra Kumar, SPC with
Mr.Rudra Palival, GP & Mr.Prahlad, SI, CISF in
W.P.(C) 9479/2024.

Mr.Nune Balraj, Adv. in W.P.(C) 9488/2024

Mr.Ravinder Agarwal & Mr.Lekh Raj Singh,
Advs. for UPSC.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

15.07.2024

%

1. The petitioners, who are working as Sub Inspectors (General Duty) in the Central Industrial Security Force (CISF) since 2018 and are aspiring to join the post of Assistant Commandant (Exe.) under the Limited Departmental Competition Examination (LDCE) quota, have approached this Court seeking the following reliefs:-

“(a) Issue a writ of certiorari quashing the findings of the Medical Board held on 21.06.2024 and Review Medical Board held on 24.06.2024 declaring the petitioner as medically unfit on the grounds of his suffering from Umbilical Hernia;



(b) Stay the operation of Orders dated 21.06.2024 and Review Medical Board held on 24.06.2024;
(c) allow petitioner to participate in the interview subject to outcome of the Writ Petition;
(d) To call for record of the case;”

2. Learned counsel for the petitioners submits that as Sub Inspectors, the petitioners are subjected to annual medical examination wherein they have always been placed in medical category SHAPE-I. Upon applications being invited for the post of Assistant Commandant/AC(Exe.), through LDCE, the petitioners applied for the same and based on their performance in the written examination, were shortlisted for medical examination. In their medical examination held on 20/22.06.2020 both the petitioners have been declared unfit on the ground on Umbilical Hernia. Being aggrieved, the petitioners preferred appeals seeking examination by a Review Medical Board. Based on their appeals, the petitioners were referred to Kailash Hospital, Greater Noida, Uttar Pradesh, for ultrasound, wherein it was categorically observed that they were not suffering from any hernia. However, despite this finding of the Kailash Hospital, the Review Medical Board has simply re-endorsed the findings of the initial Medical Board and again declared them as medically unfit on the ground of Umbilical Hernia.
3. He submits that since the petitioners are fit in every aspect, as is evident from the reports of their annual medical examination as Sub Inspectors as also the ultrasound report provided by Kailash Hospital, the petitioners again approached renowned hospitals wherein they have been declared to be medically fit. He, therefore, contends that it



is clear that there has been an error of judgment on the part of the Medical Boards conducted by the respondents and therefore, prays that the respondents be directed to treat the petitioners as medically fit and permit them to participate in the interview which is to be held on 24.07.2024.

4. Issue notice. Learned counsel for the respondents accept notice and submit that the findings given by both the initial Medical Board and the Review Medical Board to the effect that both the petitioners are suffering from Umbilical Hernia are based on their clinical examination and cannot be said to be incorrect. Furthermore, merely because the petitioners have been declared fit by civil hospitals, cannot be a ground to accept their contention that they are not suffering from Umbilical Hernia. They, therefore, pray that the writ petitions be dismissed.
5. Having considered the submissions of learned counsel for the parties and perused the record, we find that as per the ultrasound report provided by the Kailash Hospital to which hospital the respondents themselves had referred the petitioners, they are not suffering from Umbilical Hernia. We also find that neither in the initial Medical Board nor in the Review Medical Board, the respondents included any gastroenterologist, who alone according to both sides, would be in a position to conclusively opine as to whether the petitioners are suffering from Umbilical Hernia. Further, the hospitals namely Ram Manohar Lohia Hospital, New Delhi and the Civil Hospital, Ahmedabad, where the two petitioners were examined have also opined that they are not suffering from Umbilical Hernia.



6. In these circumstances, even though the respondents are correct in urging that the findings of civil hospitals cannot be a ground to determine the medical fitness of persons for joining the Armed Forces, we are of the view that taking into account that the petitioners are since 2018 being placed in medical category SHAPE-I by the CISF itself, an error of judgment on the part of the Medical Boards cannot be ruled out especially when no gastroenterologist was associated with the Board proceedings. Furthermore, Kailash Hospital, to which the petitioners were referred by the respondents themselves, had categorically opined that they are not suffering from Umbilical Hernia. It would, therefore, be in the interest of justice to direct the medical examination of the petitioners by an independent Medical Board at Army Hospital (R&R), New Delhi.
7. We, therefore, allow the writ petitions by directing the respondents to get the petitioners examined by a three member Medical Board at the Army Hospital (R&R), New Delhi on or before 22.07.2024 and accordingly, request the Medical Superintendent, Army Hospital (R&R), New Delhi to constitute a three member Medical Board at the earliest to examine the petitioners and give opinion regarding their medical fitness. As it is the common case of the parties that a gastroenterologist will be the concerned specialist to opine as to whether the petitioners are suffering from Umbilical Hernia, we request the Medical Superintendent, Army Hospital (R&R) New Delhi to ensure that a gastroenterologist is included as a member in the Medical Board to be constituted.
8. The writ petitions are, accordingly, allowed in the aforesaid terms by



making it clear that the decision taken by the Medical Board will be binding on both sides and in case the petitioners are declared medically fit to join the armed forces, they will be permitted to participate in the interview as per the laid down procedure.

9. Taking into account that interviews for final selection for the post of AC (Exe.) are commencing on 24.07.2024, we also grant liberty to the petitioners to approach the Medical Superintendent, the Army Hospital, (R&R), New Delhi for compliance of this order on or before 22.07.2024.
10. A copy of this order to be given *dasti* under signatures of the Court Master to both sides.

REKHA PALLI, J

SHALINDER KAUR, J

JULY 15, 2024

kk