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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 10108/2024

ASHISH

.....Petitioner

Through: Mr.Vikas Singh & Ms.Nisha Dhaka,
Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr.Archit Vasudeva, SPC with
Mr.Rishav Dubey, GP & Mr.Shrabanta Sarkar, SI,
SSB.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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24.07.2024

CM APPL. 41397/2024

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 10108/2024 & CM APPL. 41396/2024 (stay)

3. The petitioner, who is aspiring to join the Sashastra Seema Bal (SSB) as a Head Constable (Communication) under OBC category, has approached this Court by way of the present petition under Article 226 of the Constitution of India, seeking the following reliefs:-

“a) Issue a writ of certiorari requisitioning the records from the respondents.

(b) Issue a writ of mandamus directing the respondents to quash the result of review medical examination dated 24.06.2024 and thereafter appointing the petitioner to the post of Head Constable (Communication) in Sashastra Seema Bal in case the name of the petitioner figures in



the merit list of successful candidates prepared in respect of recruitment under File No.338/RC/SSB/Combined Advt./Cts/2020”

4. Learned counsel for the petitioner submits that upon applications being invited for the post of Head Constable (Communication) by the SSB, the petitioner applied for the same. Even though the petitioner was found fit both in the Physical Standard Test (PST) and the Physical Endurance Test (PET), he has not been appointed on the ground that he was not found to be medically fit. He submits that the petitioner was examined by the initial Medical Board on 15.06.2024, which declared him medically unfit. The petitioner then preferred an appeal and was examined by the Review Medical Board on 24.06.2024, which also declared him unfit on account of “Hypertension”. He submits that the petitioner has been declared medically unfit on account of “Hypertension” even without following the guidelines laid down by the respondents themselves which require that in order to conclusively determine as to whether a person is suffering from “Hypertension” his blood pressure has to be monitored for three days.
5. He submits that since the petitioner is a young man who is fit in every way and not suffering from “Hypertension” or any other disease, he approached the Javitri Hospital & Test Tube Baby Centre, Raibareilly Road, Telibagh, Lucknow on 21.06.2024 and 22.06.2024, where he has been declared 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 get the petitioner examined by an independent medical board in a time bound manner and in case, he is found fit, he be appointed as a Head Constable (Communication) with all consequential benefits.

6. Issue notice. Learned counsel for the respondents accepts notice and opposes the petition by urging that the findings given by both the initial Medical Board and the Review Medical Board to the effect that the petitioner is suffering from “Hypertension” is based on clinical examination of the petitioner and cannot, therefore, be said to be incorrect. Furthermore, merely because the petitioner has been declared fit by a civil hospital, cannot be a ground to accept his plea that he is not suffering from “Hypertension”. He, therefore, prays that the writ petition be dismissed.
7. Having considered the submissions of learned counsel for the parties and perused the record, we find that as per the medical opinion given by the Javitri Hospital & Test Tube Baby Centre, Raibareilly Road, Telibagh, Lucknow, it has been specifically reported that the petitioner was not suffering from “Hypertension”. In these circumstances, even though the respondents are correct in urging that the findings of a civil hospital cannot be a ground to determine the medical fitness of persons for joining the Armed Forces, we are of the view that an error of judgment on the part of the Medical Boards conducted by the respondents cannot be ruled out. It would, therefore, be in the interest of justice to direct the medical examination of the petitioner by an independent Medical Board at Army Hospital (R&R), New Delhi.



8. We, therefore, allow the writ petition by directing the respondents to get the petitioners examined by a three member Medical Board at the Army Hospital (R&R), New Delhi within four weeks and accordingly, request the Medical Superintendent, Army Hospital (R&R), New Delhi to constitute a three member Medical Board including a cardiologist at the earliest to examine the petitioner and give opinion regarding his medical fitness.
9. The writ petition is, accordingly, allowed in the aforesaid terms by making it clear that the decision taken by the Medical Board at the Army Hospital (R&R), New Delhi, will be binding on both sides and in case, the petitioner is declared medically fit to join the SSB, he will be appointed as a Head Constable (Communication) within six weeks from the date he is declared fit with notional seniority and pay fixation subject to his fulfilling all other eligibility criteria.

REKHA PALLI, J

SHALINDER KAUR, J

JULY 24, 2024

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