



\$~37

\*

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

+

W.P.(C) 14217/2023 & CM APPL. 56282/2023 –Int. dir

HIMANSHU KUMAR

.....Petitioner

Through: Ms.Saahila Lamba, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.Gaurav Sharma, Mr.Amit Acharya, Ms.Devna Arora, Mr.Sandeep Kumar, Mr.Sudanshu Sharma, Mr.Abhishek Budhiraja, Advs. with Mr.Ram Niwas, Sub. & Mr.Shyam Singh Negi, Nb.Sub.

**CORAM:**

**HON'BLE MS. JUSTICE REKHA PALLI**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

**ORDER**

**12.08.2024**

%

1. The petitioner, who was aspiring to join the Border Roads Organisation (BRO) as an LDC by way of compassionate appointment, has approached this Court seeking the following reliefs:-

*“(i) Issue a writ of certiorari for quashing the speaking order dated 18.10.2022 issued by the respondents;*

*(ii) Issue a writ of mandamus directing the respondents to grant compassionate appointment in General Reserve Engineering Force/Border Roads Organization;*

*(iii) Pass any such other orders as it may deem fit to this Hon’ble Court in the facts and circumstances of the case.”*

2. Learned counsel for the petitioner submits that the petitioner was compelled to approach this Court as the petitioner was not even informed as to why he had been declared medically unfit by the Review Medical Board. He submits that now that the respondents



have provided him with a copy of the Review Medical Board proceedings, it transpires that the petitioner was, on 14.09.2022, declared as medically unfit only on the ground of being underweight. She contends that this medical unfitness of the petitioner was evidently temporary and therefore, he cannot be treated as medically unfit for his future appointment in the Force as he may, in the future, gain weight and may no longer be underweight.

3. Learned counsel for the respondents agrees with this contention of the petitioner and submits that the declaration of the petitioner being medically unfit on 14.09.2022 was valid for only a period of 180 days. Consequently, in case, the petitioner were to apply for any future appointment, this finding of his being medically unfit on 14.09.2022 will not come in his way.
4. In the light of this plea taken by the respondents, we dispose of the petition by making it clear that in case, the petitioner applies for any future appointment, the rejection of his candidature by the respondent on medical grounds which is subject matter of the present petition, will not come in his way and his medical fitness will be determined in the future selection process as per rules.
5. The writ petition along with pending application is disposed of in the aforesaid terms.

**REKHA PALLI, J**

**SHALINDER KAUR, J**

**AUGUST 12, 2024/kk**