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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 10365/2024 & CM APPL. 42545/2024 (Int. Dir.)

MANISH MALIK

.....Petitioner

Through: Mr. Shrutanjaya Bhardwaj and Mr.
Omkar Hemanth, Advs.

versus

**UNION OF INDIA (MINISTRY OF HOME AFFAIRS) AND
ANR.**

.....Respondents

Through: Mr. Neeraj, SPC with Mr. Vedansh
Anand, Adv. with Mr. Prahlad, CISF.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

12.08.2024

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1. The petitioner, who is aspiring to join the Central Industrial Security Force (CISF) as a Head Constable (HC) (GD) under the Sports Quota, has approached this Court by way of the present petition under Article 226 of the Constitution of India seeking the following reliefs:

a. Quash the findings of the Medical Examination dated 15.07.2024 and the findings of the Review Medical Examination dated 22.07.2024 declaring the Petitioner to be medically unfit for the post of Head Constable (General Duty) CISF;

b. Direct the Respondents to issue an appointment letter to the Petitioner forthwith, or, in the alternative, issue appropriate directions to the Respondents or any other authority/hospital to conduct a fresh medical examination of the Petitioner after a period of four weeks and a further direction to the Respondents to appoint the Petitioner as Head Constable (General Duty) CISF if found fit in the fresh medical examination so conducted.



2. Upon an advertisement being issued by the respondents on 30.10.2023 for recruitment of meritorious sportsmen and women to the post of HC (GD) against the Sports Quota-2023 in the CISF, the petitioner applied for the aforesaid post of HC (GD) under the Sports Quota, for which 5 posts were earmarked for the sport of Hand Ball. Based on his performance in the Trial Test, Proficiency Test and Physical Standard Test (PST), the petitioner was shortlisted for medical examination. However, in the medical examination held on 10.07.2024, the petitioner was declared medically '*unfit*' due to '*presence of protein and blood in urine with abnormal WSC and epithelial cells*'.

3. Being aggrieved, the petitioner preferred an appeal seeking examination by a Review Medical Board which was conducted on 16.07.2024, whereafter, the Review Medical Board vide its report dated 22.07.2024 disclosed the presence of kidney stones and declared the petitioner as medically '*unfit*'.

4. Learned counsel for the petitioner submits that since the petitioner is '*fit*' in every aspect and is an active sportsman but was temporarily suffering from kidney stones, he got himself operated in July, 2024 from Amrit Dhara Hospital, Karnal, Haryana whereafter, he is no longer suffering from kidney stones. Moreover, pursuant to this Court's order dated 29.07.2024, the petitioner approached the Pandit Bhagwat Dayal Sharma, Post Graduate Institute Medical Sciences, Rohtak, Haryana (PGIMS, Rohtak), where on 10.08.2024, he was declared to be medically '*fit*' in every form. A copy of the petitioner's medical examination by PGIMS, Rohtak has been handed over by the learned counsel for the petitioner and is taken on record.



5. Learned counsel submits that one vacancy to the post of HC (GD) for the sport of Hand Ball is still available with the respondents and therefore, prays that the respondents be directed to appoint the petitioner who is an active sports person to the post of HC (GD) so that he can join the training which is commencing shortly.

6. Issue notice.

7. Learned counsel for the respondents accepts notice and submits that the findings given by both the initial Medical Board as also and the Review Medical Board regarding the petitioner's unfitness were absolutely correct as is evident from the fact that the petitioner has recently got his kidney stones removed. Further, he contends that just because the petitioner has now been declared '*fit*' by PGIMS, Rohtak, a Civil Hospital, the same cannot be a ground to accept his plea that he is not suffering from any kidney stones. He, therefore, prays that the writ petition be dismissed.

8. Having considered the submissions of the learned counsel for the parties and perused the record, we find that as per the report submitted by PGIMS as well as the Amrit Dhara Hospital, Karnal, Haryana, it is evident that the petitioner is no longer suffering from kidney stones and has been declared medically '*fit*' by both these hospitals. Since, it is the petitioner's categorical case that a vacancy of HC (GD) in the sport of Hand Ball is still available, we are of the view that a young sportsman like the petitioner, who is only aged about 22 years, ought to be given an opportunity to serve in the CISF if, he is medically '*fit*'. Furthermore, having perused the guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles issued on 20.05.2015 we find that 'kidney stones' has not been included as a bar for enrolment of personnel in the Central Armed Police



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9. In any event, after his surgery, the petitioner is no longer suffering from kidney stones. However, we find merit in the respondents' plea that merely because the petitioner has been declared medically 'fit' by two civil hospitals cannot itself be a ground to accept his medical fitness for the CISF. We are, therefore, of the considered opinion that the petitioner must be examined by an independent Medical Board. We, therefore, direct the respondents to get the petitioner examined by a three member Medical Board at the Army Hospital (R&R), New Delhi. Since, the training for candidates selected pursuant to the advertisement issued on 30.10.2023 is likely to commence soon, we request the Medical Superintendent, Army Hospital (R&R), New Delhi to constitute a three member Medical Board at the earliest to examine the petitioner on or before 22.08.2024 and give its opinion regarding his medical fitness. As it is the common case of the parties that an urologist will be the concerned specialist to opine as to whether the petitioner is suffering from kidney stones or not, we request the Medical Superintendent, Army Hospital (R&R), New Delhi to ensure that an urologist is included as a member in the Medical Board that is to be constituted in terms of this order.

10. The writ petition is, accordingly, allowed, in the aforesaid terms by making it clear that the decision taken by the Medical Board of 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 Armed Forces and there is still a vacancy available to accommodate him, the petitioner will be appointed as a HC (GD) expeditiously so that he can join the training which is commencing on 24.08.2024.



11. Taking into account that the training for the post of HC (GD) is scheduled to commence on 24.08.2024, we also grant liberty to the petitioner to approach the Medical Superintendent, Army Hospital (R&R), New Delhi for compliance of this order on or before 22.08.2024.

12. Copy of this order be given *dasti* to both the sides under the signatures of Court Master.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 12, 2024

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