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

+ W.P.(C) 10530/2024 and CM APPL. 43273/2024, CM APPL.
43274/2024

THE DIRECTOR GENERAL, CENTRAL INDUSTRIAL
SECURITY FORCE & ORS.

.....Petitioners

Through: Dr. Vijendra Singh Mahndiyan,
CGSC with Mr. Jitendra Rajotia,
Assistant Commandant, CISF.

versus

ABHISHEK NAGAR

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **31.07.2024**

1. The present writ petition has been filed under Articles 226 and 227 of the Constitution of India by the petitioners seeking setting aside of final order and judgment dated 08.05.2023 passed by the learned Central Administrative Tribunal ('Tribunal'), Principal Bench, New Delhi in O.A.No.2853/2017, whereby the learned Tribunal has directed the petitioners to constitute a fresh Medical Board as laid down in the advertisement notice and re-examine the case of the respondent within three months.

2. Pursuant to advertisement notice dated 09.01.2016 for filling up post of Sub Inspector in Delhi Police, CAPFs and Assistant Sub Inspector in CISF, the respondent was issued call letter for appearing in Paper – 1 on 06.06.2016. After qualifying the said paper, respondent No. 1 was called up



to appear in PET/PST on 15.09.2016 which he also qualified. He was thereafter called up for document verification and medical examination to be held on 13.04.2017. On 15.04.2017, the respondent was medically examined by a duly constituted Medical Board, wherein he was declared 'unfit' due to Low distant vision, Low near vision, Hypertension, Scoliosis and Cubitus Valgus.

3. The respondent preferred an appeal before DME Board seeking his review medical examination, which was held at Composite Hospital, CRPF Jharodakalan on 11.07.2017, wherein after being thoroughly examined by a Panel comprising of three Eye specialist, he was declared unfit on account of Defective Distance Vision of 6/9 and 6/9.

4. The respondent submitted an appeal on 27.07.2017 before RME Board for declaring him perfect on the basis of the medical examination conducted by Specialist of Government Hospital, which was rejected.

5. The respondent preferred O.A. 2853/2017 before the learned Tribunal, wherein the learned Tribunal vide order dated 08.05.2023 held as under:

“09. The O.A. is disposed of with a direction to the respondents to constitute a fresh medical board in terms of the conditions laid out in the advertisement notice and re-examine the applicant. In case the applicant is found fit, subject to clearing of all other conditions, the respondents shall issue an offer of appointment to him with all consequential benefits, if any, on notional basis.

10. The above exercise shall be completed by the respondents within a period of three months from the date of receipt of a certified copy of this order.



6. The aforesaid decision of the learned Tribunal is challenged by the petitioners before this Court on the ground that when the detailed Medical Examination Board and the Review Medical Board has declared the respondent 'unfit' and there is no appeal against the Review Medical Board's decision, the directions passed by the learned Tribunal to constitute fresh Board in terms of the conditions laid down in the advertisement notice and re-examination, amounts to re-examination before the same authority.

7. In view of aforesaid facts as well as in the interest of justice, we hereby dispose of the present writ petition by directing the petitioners to facilitate the constitution of a fresh Medical Board at the Army Hospital (R&R), New Delhi for conducting fresh examination of the respondent within two weeks from today. If the respondent is found fit by the aforesaid Medical Board, he may be permitted to join in the further selection process. However, if the respondent is found unfit by the aforesaid Medical Board, he will not be granted any further opportunity to get examined again.

8. It is made clear that the decision of the aforesaid Medical Board shall be final and binding.

9. Copy of this order be transmitted to Incharge, R&R Hospital, New Delhi for information and necessary compliance.

SURESH KUMAR KAIT, J

GIRISH KATHPALIA, J

JULY 31, 2024/uk