



2024:DHC:8162-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 21.10.2024*+ W.P.(C) 11696/2024
PRADEEP KUMAR

.....Petitioner

Through: Mr. Abhinay Sharma, Mr.
Pooran Chand Roy, Ms.
Deeksha Prakash, Ms. Parul
Khurana and Ms. Kirti Vyas,
Advs.

versus

INDIAN COAST GUARD & ORS.Respondents

Through: Mr. Balendu Shekhar, CGSC
with Mr. Raj Kumar Maurya
and Mr. Krishna Chaitanya,
Advs.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J (ORAL)****CM APPL. 61660/2024**

1. By way of the present application, the petitioner prays for preponement of the next date of hearing.
2. With the consent of the learned counsel for the respondents, who appears on advance notice, the petition is being taken up for final hearing today itself.
3. The application is, accordingly, disposed of.

W.P.(C) 11696/2024

4. The present petition has been filed by the petitioner seeking the



following reliefs:-

- “a) Issue an appropriate writ, order, or direction setting aside/holding the declaration of the Petitioner as “unfit” by the Respondents vide the Impugned Medical Reports dated 09.04.2024 and 10.04.2024 as arbitrary and violative of Articles 14, 16, and 21 of the Constitution of India, 1950;*
- b) Direct the Respondents to facilitate the establishment of a new Medical Board at the Army Hospital (R&R), New Delhi to conduct a fresh medical examination of the Petitioner*
- c) Consequentially, issue an appropriate writ, order, or direction directing the Respondents to induct the Petitioner in the ongoing recruitment process for Batch 02/2024 with consequential seniority and benefits;*
- d) In the alternative to prayer (c), issue an appropriate writ, order, or direction directing the Respondents to induct the Petitioner for the subsequent Batch with consequential seniority and benefits.”*

5. It is the case of the petitioner that he had applied for recruitment to the post of Navik (Domestic Branch) on 14.09.2023 pursuant to a Recruitment Advertisement dated 08.09.2023 issued by the respondent no. 1 for the 01/2024 batch. The petitioner cleared Stage-I of the recruitment process and thereafter, also successfully completed Stage-II of the recruitment process, which included the Assessment/Adaptability Test, Physical Fitness Test (in short, ‘PFT’), document verification and the initial medical examination, wherein he was declared as “fit”.

6. It is pertinent to mention here that at Stage-II, during the PFT, the measurement of the petitioner’s chest was recorded as 78 cms (full expiration) and 05 cms (range of expansion), which is within the



required limits.

7. Thereafter, the petitioner was required to report at INS Chilka on 09.04.2024 for Stage-III of the recruitment process.

8. The petitioner claims that on 05.04.2024, he suffered from fever and cold and, therefore, visited the Community Health Centre (CHC) Mudawar, Alwar for treatment, where the doctor advised him to take bed rest for 5 days.

9. As the petitioner could not miss the appointment for Stage-III of the recruitment process, he duly reported at INS Chilka on 09.04.2024, and on the same day he appeared for the initial medical examination, wherein he was declared temporarily “unfit” due to “poorly developed chest” and “PAN systolic murmur”. The measurement of the petitioner’s chest recorded at this stage was 80 cms (full expiration) and 04 cms (range of expansion). It was reported that the chest expansion is less than 05 cms.

10. The petitioner, thereafter, applied for his re-examination by an Appeal Medical Board.

11. He claims that, however, without granting him sufficient time to recover from his illness, he was directed to present himself before the Appeal Medical Board on 10.04.2024 itself.

12. The Appeal Medical Board also rejected the candidature of the petitioner, reporting that his chest expansion is 03 cms, however, it was also reported that there was no “no cardiac murmur”. He was, therefore, again declared unfit for poor (inadequate) chest expansion, as the requirement for the same is of more than 05 cms.

13. The learned counsel for the petitioner submits that as the



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petitioner was unwell, he should have been given sufficient time to appear before the Appeal Medical Board. He also submits that in terms of the Medical Process for Recruitment of Enrolled Personnel dated 12.01.2024 issued by the Indian Coast Guard, a candidate is required to report for the Appeal Medical Examination within a maximum period of 21 days from the date of the recruitment medical examination. He submits that, therefore, the petitioner was not given sufficient time to recover from his illness.

14. On the other hand, the learned counsel for the respondents submits that in terms of the Anthropometric Standards mentioned in Section 2 of the Manual on Medical Examination and Medical Standards for Various Entries into Army, TRG Academies and MIL Schools Policy dated 16.07.2019, it is clearly mentioned that the minimum chest circumference recommended for cadets as well as recruits is 77 cms, however, the chest expansion should be 5 cms or more for all categories of candidates. He submits that as the petitioner failed to meet the standard, his candidature was rightly rejected by the Initial Medical Board and the Appeal Medical Board. He submits that 21 days is the maximum period within which the recruit has to report for the appeal medical examination and the same cannot be treated as the period which is mandatorily required to be given. The learned counsel for the respondents further submits that in case this Court finds favour with the plea of the petitioner, the petitioner can now be accommodated only in the Coast Guard Enrolled Personnel Test (CGEPT) batch 02/2025.

15. We have considered the submissions made by the learned



counsels for the parties.

16. In the present case, as noted herein above, the petitioner has been declared 'unfit' only for the reason that his chest expansion was reported to be less than 05 cms in the medical examination at Stage-III. The initial medical examination, which was carried out at Stage-II, reported his chest expansion to be 05 cms, which met the required standards. The petitioner claims that he was suffering from cold and fever when he reported to INS Chilka for the Stage-III examination. In the initial medical examination at Stage-III, there is an overwriting as far as the recording of the measurement of chest expansion of the petitioner is concerned. It appears that an initial measurement of 07 cms was changed to 04 cms. In the measurement taken on the very next date, the chest expansion was recorded as 03 cms. The petitioner claims that thereafter he got himself medically examined at AIIMS, New Delhi and his chest expansion has been reported as 06 cms.

17. In the peculiar facts of the present case, we, therefore, are of the opinion that the petitioner should be made to undergo a fresh medical examination for determining his fitness for recruitment as Navik (Domestic Branch). For the said purpose, the respondent no. 1 shall inform the petitioner of the time and place for making himself present for a fresh medical examination, which must be conducted within a period of four weeks from today.

18. Depending on the result of the fresh medical examination, the petitioner, if found fit, would be eligible to undergo Stage-III of the recruitment process and further stages of the recruitment process along with a subsequent batch, which as per the respondents shall be



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CGEPT batch 02/2025.

19. We make it clear that in case the petitioner is to be granted an appointment, he shall not claim seniority, back wages or any other consequential benefits from a retrospective effect.

20. The present petition is disposed of with the above directions.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 21, 2024/ss/B/SJ

Click here to check corrigendum, if any