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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 12112/2024

RAMESH CHANDRA

.....Petitioner

Through: Mr.Pranav Kanti, Adv.

versus

**DIRACTORATE GENERAL BORDER ROAD ORGANISATION
AND ORS.**

.....Respondent

Through: Mr.Varun Vats, Adv with Mr.Rahul
Kumar Sharma, GP, Mr.Ram Niwas, SI(BRO)

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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02.09.2024

CM APPL. 50378/2024 –Ex.

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

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3. The petitioner, who is serving as a 'Cook' in the Border Roads Organisation ('BRO') since 07.07.2001 has approached this Court under Article 226 of the Constitution of India, assailing the order dated 01.07.2024 passed by the respondents, wherein he has been declared 'unfit' for selection for deputation to BCA posting in Bhutan for the project "Chetak".
4. Learned counsel for the petitioner submits that the petitioner has been wrongly declared medically 'unfit' on the basis of the blood report furnished by a private laboratory, Dr.Lal Path labs, wherein it was



wrongly reflected that his HbA1c, i.e. the average blood glucose (sugar) level, is 10.2%, and therefore he is suffering from diabetes. In fact the petitioner is not suffering from diabetes, which is clear from the report dated 14.06.2024 from Mangalam Laboratory, Jaisalmer, wherein it has been reported that his HbA1c is only 6.5%. He submits that the petitioner is medically fit in every respect as is evident from the fact that he has been diligently discharging his duties in the BRO for the last many years. The respondent's action in declaring the petitioner 'unfit' for deputation only on the basis of the report from Dr.Lal Path labs, a private laboratory, he contends, is unfair and, therefore, prays that the impugned order be set aside.

5. *Per contra*, learned counsel for the respondents, who appears on advance notice, opposes the petition by not only relying on the test report furnished by Dr. Lal Path labs but also hands over in Court a copy of the report dated 27.06.2024 from a Specialised Centre, i.e, the Diabetic Care and Research Centre, SP Medical College & A.G. of Hospital, Bikaner, Rajasthan, as per which the petitioner's HbA1c has been reported to be 9.8%. The same is taken on record. Further, he contends that the report from Mangalam Laboratory wherein the petitioner's HbA1c has been reported as 6.5% cannot be relied upon as, unlike Dr Lal Path labs, the said laboratory it is not even NABL accredited. He, therefore, prays that the writ petition be dismissed.
6. Having considered the submissions of the parties, we are of the view that once it has been categorically reported both by Dr Lal Path labs, which is a NABL accredited Lab, as also the Diabetic Care and Research Centre, SP Medical College & A.G. of Hospital, Bikaner,



Rajasthan, which is a Specialised Centre, that the petitioner is suffering from diabetes, it is not for this Court to hold that the petitioner is not suffering from diabetes. The Court cannot substitute its opinion for that of the medical experts. We, therefore, find no infirmity with the decision of the respondents to declare the petitioner as 'unfit' for deputation. Further, even though the petitioner has a right to be treated fairly, he does not have any vested right to claim deputation. The respondents having found the petitioner to be medically unfit, it cannot be said that there is any perversity or illegality with the impugned order dated 01.07.2024.

7. The writ petition is, accordingly, dismissed.

REKHA PALLI, J

SHALINDER KAUR, J

SEPTEMBER 2, 2024

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