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

% *Date of decision: 9th September, 2024*

+ W.P.(C) 12561/2024 and CM APPL.52231-52232/2024

STAFF SELECTION COMMISSION AND ORS.Petitioners

Through: Dr. B. Ramaswamy, Advocate.

Versus

NEHA

.....Respondent

Through: Ms. Esha Mazumdar, Mr. Setu Niket,
Mr. Ishan Singh, Ms. Unnimaya S.
and Ms. Chetna, Advocates.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T (oral)

1. The present petition under Article 226 of the Constitution of India has been filed by the petitioners seeking setting aside of judgment dated 20.05.2024 passed by the learned Central Administrative Tribunal ('Tribunal'), New Delhi in O.A. No. 1881/2024.
2. Notice issued.
3. Learned counsel appearing on behalf of the respondent accepts notice.
4. With the consent of parties, the present petition is taken for final disposal.
5. The brief facts of the case are that respondent had preferred O.A. No.1881/2024 before the learned Tribunal, being aggrieved of the Review Medical Examination conducted on 25.01.2024 by the petitioners for



recruitment to the post of Constable (Executive) Male and Female in Delhi Police Examination 2023 wherein she was declared ‘unfit’ on account of “*Vision - Right-6/12, Left-6/36 and Centralized Vitiligo present over face, both hand, both legs and back, front*”.

6. The case of the respondent before the learned Tribunal was that the said medical ground, on which she was declared ‘unfit’ was neither notified nor there was any finding that it is an impediment for functional performance of the duty as a Constable. She placed reliance upon order dated 10.05.2024 in OA No. 519/2024, titled as ***Teekaram Singh Meena Vs. SSC & Ors.*** to submit that her disability cannot be regarded as deformity or any impediment in performing the functions of Constable in Delhi Police.

7. To the contrary, the stand of petitioners before the learned Tribunal was that in a catena of decisions it has already been held that the recruitment in Public Service has to be strictly done in accordance with the terms of the advertisement and Recruitment Rules. The petitioners pleaded that it was incumbent upon the respondent to disclose the medical details about her disease, which she did not at the time of obtaining medical certificate from a Civil Hospital and thus, respondent’s medical fitness was required to be assessed by the Review Medical Board and so, the Department was directed to constitute a Review Medical Board, who declared her unfit for recruitment.

8. The learned Tribunal vide impugned judgment dated 20.05.2024 allowed the OA filed by the respondent and directed the petitioners to comply the directions as contained in OA No. 519/2024, titled as ***Teekaram Singh Meena Vs. SSC and Ors.*** wherein direction was issued to conduct re-



review medical of the candidate to assess the functionality and capability to perform the duties as Constables.

9. Being aggrieved with the impugned judgment dated 20.05.2024, the present petition has been preferred by the petitioners on the ground that the learned Tribunal has not appreciated that the respondent had undergone detailed medical examination not once but twice, which was conducted keeping in mind the parameters contained Delhi Police (Appointment and Recruitment) Rules, 1980 as amended from time to time. Rule 9 & Rule 14 (C) of the Rules deals with Recruitment of Constables (Male & Female) Rule 9(v) & 14(3) as amended on 22.10.2018.

10. During the course of hearing, learned counsel appearing on behalf of the petitioners submitted that Medical Board constituted by Ministry of Home Affairs was an independent Medical Board and not by Delhi Police and the opinion rendered by the Medical Board should not be disputed until and unless there are strong medical evidence for the same.

11. On the other hand, learned counsel appearing on behalf of the respondent has strongly opposed the present petition submitting that the case of the respondent is on parity with candidates in ***Salman Vs. Staff Selection Commission*** in OA No. 823/2024 and ***Deepak Yadav Vs. Staff Selection Commission*** in OA No. 597/2024 respectively and it deserves to be dismissed.

12. Upon hearing learned counsel on both sides and on perusal of material placed on record before this Court, we find that as per Review Medical Board report dated 25.01.2024, the respondent was declared unfit on account of “*Vision - Right-6/12, Left-6/36 and Centralized Vitiligo present over face, both hand, both legs and back, front*”.



13. The respondent has placed strong reliance upon decisions in *Salman Vs. Staff Selection Commission* in OA No. 823/2024 and *Deepak Yadav Vs. Staff Selection Commission* in OA No. 597/2024.

14. In *Salman (Supra)*, the applicant had participated in the selection process for the post of Constable (Executive) Male and Female in Delhi Police, 2023 conducted by SSC and in the Initial Medical Examination and Review Medical Board, which were conducted at the same hospital, was declared unfit; the Tribunal held that since the applicant was successful in all the stages of selection, a fresh medical examination of the applicant by way of constituting an appropriate medical board in any government medical hospital except the Hospital which has already conducted the initial and the review medical examination, be conducted. Further directed that if the candidate is declared medically fit and subject to meeting other criteria, applicant shall be given appointment with consequential benefits.

15. In *Deepak Yadav (Supra)*, the candidature of the applicant was rejected on the ground of faded but visible tattoo in right forearm, which is prohibited under the rules and regulations of the petitioners. The Tribunal held that the tattoos were permissible and the Review Medical Board did not spell the reasons for rejection and thereby, directed to get the applicant's re-medical examination done by a duly constituted Medical Board to assess as to whether the applicant was functionally fit for appointment to the post of Constable in Delhi Police.

16. On perusal of record of this case, we find that neither copy of report of Review Medical Board, nor the report dated 11.04.2024 of SDN Hospital as well as report of Guru Teg Bhadur Hospital, based upon which respondent claims to have been declared fit in both the eyes; been placed on



record.

17. However, in the interest of justice and in view of the fact that the respondent was selected for the post of Constable in Delhi Police, we hereby direct the petitioners to within six weeks facilitate the respondent to get her medically examined from RR Hospital, Delhi to assess her eye vision and vitiligo; and the respondent shall disclose her past and present medical conditions and treatment, if any, undertaken, before the said Medical Board. Upon receipt of opinion of the Medical Board from RR Hospital, the petitioners shall consider the case of respondent in light of decisions in *Salman* and *Deepak Yadav (Supra)* and if the respondent is found fit, the petitioners shall within two weeks offer her appointment.

18. Accordingly, the respondent shall appear before RR Hospital, Delhi on 17.09.2024 at 9:30 a.m. for undertaking her medical examination.

19. It is made clear that, as agreed by the learned counsel for the parties, the opinion rendered by RR Hospital in respect of respondent's medical condition shall be final and binding on the parties.

20. With aforesaid directions, the present petition and pending application are accordingly disposed of.

SURESH KUMAR KAIT, J

GIRISH KATHPALIA, J

SEPTEMBER 9, 2024uk/r