



2024:DHC:9112-DB



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

Date of decision: 25.11.2024

+ **W.P.(C) 14080/2024 & CM APPL. 58891/2024
STAFF SELECTION COMMISSION & ORS.**

.....Petitioners

Through: Mr.Vinay Yadav, SPC with
Mr.Abhinav M. Goel, Adv.

versus

RAJESH

.....Respondent

Through: Ms. Esha Mazumdar, Ms. Setu
Niket, Ms. Unnimaya S, Mr.
Ishan Singh and Mr. Devansh
Khatter, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

1. This petition has been filed by the petitioners challenging the Order dated 11.03.2024, passed by the Central Administrative Tribunal, Principal Bench, New Delhi, in OA No. 1001/2024, titled ***Rajesh v. State Selection Committee and Others***, disposing of the said Original Application filed by the respondent herein, *inter alia*, with the following directions:-

“9. The present OA is accordingly disposed of with a direction to the competent authority amongst the respondents to conduct 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.

10. Needless to say that the competent authority shall thereafter pass appropriate orders with respect to the candidature of the applicant on the basis of the outcome of such an independent/fresh medical examination.

11. The directions contained herein shall be complied with within a period of six weeks from the date of receipt of a certified copy of this order. In the event of the applicant being declared medically fit and subject to his meeting other criteria, she shall be given appointment forthwith. The applicant, in such an eventuality, shall also be entitled to grant of all consequential benefits, however, strictly on notional basis.

12. We make it clear that besides the limited directions given above, we have neither examined nor commented upon the merits of the claim of the applicant as set forth in this OA. Further, nothing in this order is to be construed as an opinion upon the medical reports or upon the competence of the doctors who have issued it. We record that we are not entitled to comment upon their professional competence.”

2. The respondent had approached the learned Tribunal, challenging the Review Medical Board proceedings dated 24.01.2024, which had declared the respondent unfit for appointment to the post of Constable (Exe) under the Constable (Exe.) male and female category in Delhi Police Examination, 2023, on the ground of the respondent being found to be suffering from ‘pectus excavatum’.



3. It was the case of the respondent before the learned Tribunal that the respondent got himself examined at the Safdarjung Hospital, New Delhi on 24.02.2024, where the Doctors cleared him by stating that he does not suffer from the said ailment/medical disqualification.
4. The learned Tribunal taking note of this divergent report of medical examination, disposed of the Original Application filed by the respondent with the above quoted directions.
5. The learned counsel for the petitioners submits that the learned Tribunal has failed to appreciate that the medical board proceedings are final and cannot be challenged based on a report obtained from another hospital, unless, the respondent alleges *mala fide* against the medical board. He submits that the direction issued by the learned Tribunal would open the selection process by allowing a review at the mere request of the respondent.
6. We have considered the submissions made by the learned counsel for the petitioners, however, in the peculiar facts of the present case, we do not find any merit in the same.
7. In the present case, the respondent had relied upon the report received from the Safdarjung Hospital, which had cleared the respondent herein of all the medical disqualification attributed to him by the Review Medical Board, that is, 'pectus excavatum'. We are, therefore, of the opinion that the respondent has been rightly granted a fair opportunity to demonstrate to the petitioners that he does not really suffer with the alleged medical disqualification. We, however, direct that, in case, in the medical board proceedings it is found that the respondent does in fact suffer from the same disqualification, his



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case should not be processed further by the petitioners for appointment and such medical opinion shall not be open for further challenge by the respondent.

8. Accordingly, we find no merit in the present petition. The same is disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 25, 2024/rv/DG

Click here to check corrigendum, if any