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

+ **W.P.(C) 14154/2024**

AHRAZ ALI

.....Petitioner

Through: Mr.Syed Ahmed, Mr.Firoz Iqbal Khan, Mr.Mohamaad Faizan and Mr.Babu Ram, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.Nawal Kishore Jha, SPC with Ms.Kalpana Jha, Advocate for R-1.
Mr.T.Singhdev, Mr.Abhijit, Mr.Bhanu, Ms.Anum, Mr.Aabhaas, Mr.Tanishq, Mr.Sourabh, Ms.Yamini and Ms.Ramanpreet Kaur, Advocates for R-5.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

15.10.2024

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1. In view of the order passed by this Court on 07.10.2024, the petitioner appeared before the medical board constituted by All India Institute of Medical Science ["AIIMS"].

2. The report dated 10.10.2024 as submitted by AIIMS reads as under:-

"No.F.2-141/Medical Board/2024-Estt.(H.)

Dated: 10.10.2024

Subject: Report of the medical board constituted at AIIMS for medical examination of petitioner Mr. Ahraz Ali in compliance of order dated 07.10.2024, Hon'ble High Court of New Delhi vide W.P. (O.) - 14154/2024 titled Ahraz Ali Versus Union of India & Ors.



With reference to the aforementioned subject, the Medical Superintendent, AIIMS, New Delhi constituted a Medical Board consisting of the following members: -

- 1. Dr. S. L.Yadav :Chairperson
Professor, Deptt. of P.M.R.*
- 2. Dr. Arun Kumar Choudhary : Member
Asstt. Professor, Deptt. of P.M.R.*
- 3. Dr. Arvind Kumar : Member
Asstt. Professor, Deptt. of Orthopaedics:(JPNATC)*
- 4. Dr. Mohit Tiwari :Member Secy.
Department of Hospital Administration*

The meeting of the Medical Board was held on 10.10.2024 (Thursday) at 12:00 Noon in Consultation Room No.13, M.S. Office Wing, First floor, AIIMS, New Delhi. The available reports, earlier disability certificates (first dated 15.02.2024 issued from Chief Medical Officer, Rampur, Uttar Pradesh with 40% Locomotor Disability and second dated 10.08.2024 issued from the S.S. Hospital, IMS, B.H.U. with 0% Physical and Locomotor Disability) and medical documents were reviewed. The petitioner, Mr. Ahraz Ali, son of Mr. Hasan Ali year 27 old male was present (UHID: 107861384) and was examined by the members of the Medical Board.

The medical board opined that Mr. Ahraz Ali has 12% (twelve percent) disability In relation to his right lower limb (He doesn't belong to the category of benchmark disability i.e. 40%). His condition may improve with time after a regular therapeutic exercise programme.

He can pursue a Medical Course (M.B.B.S.) with his current functional status.”

3. It is thus seen the petitioner has 12% (twelve percent) disability in relation to his right lower limb (He doesn't belong to the category of benchmark disability i.e. 40%) and his condition may improve with time after a regular therapeutic exercise programme. The report, however, states that the petitioner can pursue a medical course (M.B.B.S.) with his current functional status.



4. The Court takes note of the decision rendered in W.P.(C) 9720/2023 dated 26.07.2023, W.P.(C) 5754/2022 dated 02.09.2022 and the decision of the Division Bench in W.P.(C) 3523/2022 dated 05.04.2022.

5. A conjoint reading of the enunciation of law as laid down in the aforesaid decisions would indicate that in case the candidate does not fulfil the requirement of benchmark disability laid down under the provisions of Section 2(r) of the Rights of Persons with Disabilities Act, 2016 (hereinafter referred as “Act”), he would not be entitled for reservation under the provisions of the Act.

6. In view of the aforesaid, the petitioner cannot be extended the benefit of reservation under the provisions of the Act. However, the petitioner shall be entitled for consideration as a General category candidate and in case, the petitioner meets the merit criteria, let the same be considered in accordance with the extant regulations.

7. The petitioner shall approach the counselling authority as a general category candidate and his candidature be considered in accordance with law.

8. The instant petition stands disposed of.

9. *Dasti.*

PURUSHAINDRA KUMAR KAURAV, J

OCTOBER 15, 2024

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