



2024:DHC:9747-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 17.12.2024

+ W.P.(C) 15619/2024 & CM APPL. 65572/2024

AYUSH DUBEY

.....Petitioner

Through: Ms. Esha Mazumdar, Mr. Setu Niket, Ms. Unni Maya and Mr. Devansh Khatter, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Awadhesh Kumar Singh, Adv.

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 petitioner challenging the reports of the Detailed Medical Examination (DME) dated 04.10.2024 and the Review Medical Examination (RME) dated 11.10.2024, by which the petitioner was declared medically 'unfit' for appointment to the post of Constable (General Duty) in the Constable (GD) in Central Armed Police Forces (CAPFs), SSF, and Rifleman (GD) in Assam Rifles Examination, 2024.

2. The petitioner was declared as medically 'unfit' for appointment by the DME Board *vide* its impugned Report dated 04.10.2024 for the following reasons:-

“(i) Wax (left) Auditory Canal.

Signature Not Verified

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By: NEELAM
Signing Date: 18.12.2024
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(ii) *Swan Neck deformity (Both hands)*”

3. The petitioner was then subjected to a RME Board, which by its impugned Report dated 11.10.2024, declared the petitioner unfit for appointment for the reason as under:-

“Tympanic Membrane Perforation Left Ear”

4. This Court, noticing that the DME and RME had declared the petitioner ‘unfit’ for appointment for different reasons, *vide* Order dated 11.11.2024, directed the petitioner to be examined at the Army Hospital (R&R), Delhi.

5. Today, we have been handed over a report dated 29.11.2024 from the Army Hospital (R&R), Delhi, which declares the petitioner *“Fit in ENT for Tympanic membrane Perforation – Lt Ear”*, also opining that the B/L Tympanic Membranes are intact and healthy and that the hearing of the petitioner is normal.

6. In view of the above finding of the Army Hospital (R&R), we find that the rejection of the candidature of the petitioner by the RME Board *vide* impugned report dated 11.10.2024 cannot be sustained. Accordingly, the impugned reports dated 04.10.2024 of the DME and 11.10.2024 of the RME, declaring the petitioner ‘unfit’ for appointment to the post of Constable (GD), are hereby set aside.

7. The respondents are directed to pursue the case of the petitioner for appointment to the said post in accordance with their advertisement, the recruitment process, and in accordance with the law. Appropriate orders in this regard shall be passed by the respondents within a week from today.



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8. In case the petitioner is found fit for appointment, he shall be appointed to the post of Constable (GD) with all consequential benefits of retrospective seniority and other benefits, however, he will not be entitled to any back wages or allowances for the period when he could not be appointed.
9. The petition along with pending application is, accordingly, disposed of in the aforesaid terms.
10. *Dasti.*

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 17, 2024/ss/sk/SJ

Click here to check corrigendum, if any