



2024:DHC:9687-DB



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

Date of Decision: 13.12.2024

+ **W.P.(C) 17229/2024 & CM APPL. 73218/2024**

BARLA HEMANTH KUMAR

.....Petitioner

Through: Mr.Rajat Arora, Mr.Niraj
Kumar, Mr.Ravi Ranjan
Mishra, Mr.Sourabh Mahla,
Advs.

versus

UNION OF INDIA AND ANR

.....Respondents

Through: Mr.Soumava Karmakar, SPC
with Mr.Kapildev Yadav, GP
with Mr.Nishant Singh,
Mr.A.K.Rana, Advs. for UOI.

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 Memorandum dated 28.11.2024, issued by the Review Medical Examination Board, which declared the petitioner unfit for the post of Assistant Sub-Inspector (ASI) (Executive) through the Limited Departmental Competitive Examination (in short, 'LDCE') 2022, on account of being suffering from 'VARICOSE VEINS' in the left thigh.
2. The learned counsel for the petitioner submits that in the Annual



Medical Examination that was conducted for the petitioner on 07.12.2023, the petitioner was declared as being in Shape-I. He submits that, therefore, there is an inconsistency in the finding of the Review Medical Board, and the petitioner should be made to undergo a Medical Examination through an Independent Board.

3. We are afraid that we cannot accept the submission of the learned counsel for the petitioner.
4. The Supreme Court in ***Pavnesk Kumar v. Union of India & Ors.***, 2023 SCC OnLine SC 1583, has held that merely because the personnel was in Shape-I category in the Annual Medical examination would not *ipso facto* result in his being medically qualified for appointment to a promotional post through the LDCE, the Supreme Court has held as under:

“12. The above submission of the counsel is ex-facie bereft of merit as the appellant was never declared medically fit for the post of Sub-Inspector (GD) pursuant to his candidature for the said post through LDCE. The appellant had undergone routine annual medical check-up as a constable and was declared in medical category SHAPE-I, which was the eligibility condition for applying to the post of Sub-Inspector (GD) through LDCE. The appellant was never declared medically fit in the process of selection for the post of Sub-Inspector (GD). The appellant may have qualified stage-I to stage-IV of the process of examination but never qualified stage-V which consisted of the detailed medical examination. The said detailed medical examination as per the call letter referred to above was done only on 23.12.2019 and not on any earlier date. In the said detailed medical examination the appellant was declared unfit which decision was upheld by the review medical examination



by the board of three members despite appellant having undergone a minor surgery for the cure of medical deficiencies pointed out earlier. The medical examination of the appellant conducted on 16.12.1999 was a routine annual examination which declared him in medical category SHAPE-I. It was not a part of examination process for selection to the post of Sub-Inspector (GD) through LDCE. The appellant never successfully qualified all the five stages of examination as advertised for the selection to the post of Sub-Inspector (GD) through LDCE.

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15. This apart, selection was to be conducted in terms of the advertisement. The scheme of the selection contained in the advertisement categorically provided clearing of the examination in all the five stages which included detailed medical examination. This was independent and in addition of the eligibility condition that a candidate must possess the medical category SHAPE-I while working on the lower post.”

5. In view of the above, we do not find any merit in the present petition. The same is accordingly dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 13, 2024
RN/DG

Click here to check corrigendum, if any