



2024:DHC:10064-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 23.12.2024

+ W.P.(C) 17741/2024
AMIT DHAKA

.....Petitioner

Through: Ms.Mandavi Pandey, Mr.Vikas
Tripathi and Mr.Girraj Singh
Yadav, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr.Nitinjya Chaudhry, SPC
with Mr.Rahul Mourya, Adv.
for UOI.
SI Shrabanta Sarkar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 75495/2024 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 17741/2024 & CM APPL. 75496/2024

2. This petition has been filed by the petitioner, challenging the findings and assessment of the Medical Invalidation Board dated 18.06.2024 and the Office Order dated 12.08.2024. Furthermore, the petitioner prays for a direction to constitute a fresh Medical Board to reassess the petitioner's medical category in accordance with the Sashastra Seema Bal (in short, 'SSB') Medical Manual.

3. By the Impugned Medical Board proceedings, the petitioner has



been placed in SHAPE-V and it has further been opined as under:

*“11. And whereas, UIN 10020809 CT (GD) Amit Dhaka was produced before the MIB (Medical Invalidation Board) on 18.06.2024, and the Board was of the opinion that he is a case of **Amputation of right Lower Limb above Knee joint (lower 1/3)**. The definitive treatment has been completed and there is no further chance of recovery. In present condition, he is not fit to perform combatised duties of SSB. Disability assessment has been carried out as per latest guidelines issued by the Ministry of Social Justice and Empowerment gazette notification extraordinary Part-II Section-3 dated 14.03.2024. His disability percentage is **80% (eighty percentage)**. Hence, the board recommended him for medical invalidation from Govt. service.”*

4. A notice dated 12.07.2024, in terms of Rule 27 of the Sashastra Seema Bal Rules, 2009 (in short, ‘SSB Rules’) was issued to the petitioner giving him an opportunity to make a representation, if any, against the opinion of the Medical Invalidation Board within 30 days thereof.

5. Pursuant thereto, as no reply was received from the petitioner within the time granted, by the Impugned Order dated 12.08.2024, a final order in terms of Rule 27 of the SSB Rules has been issued retiring/invalidating out the petitioner on medical grounds. The petitioner however, claims to have submitted a response to the show cause notice on 12.08.2024.

6. The learned counsel for the petitioner submits that the Medical Board as also the Competent Authority of the respondents has not considered if the petitioner, in spite of his disability, could have been



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accommodated in some other area of work which, in fact, the petitioner was doing right since the amputation of his right lower limb above knee joint in 2010.

7. Issue notice.

8. Notice is accepted by Mr.Nitinjya Chaudhry, the learned counsel for the respondents. He submits that the petitioner failed to give any response to the Show Cause Notice issued to the petitioner, and that the representation given by the petitioner was not in terms of Rule 27 of the SSB Rules.

9. We have considered the submissions made by the learned counsels for the parties.

10. From a reading of the Impugned Order, it does not become apparent if the respondents had considered if the petitioner can be accommodated in some other nature of work given his disability, though it is not denied that the petitioner having suffered an amputation of his right lower limb above knee joint in 2010, had been accommodated in other nature of work commensurate with his medical condition. The reason as to why such relief could not have been extended to the petitioner any further has not been mentioned in the Impugned Order.

11. We, therefore, set aside the Impugned Order dated 12.08.2024 and remand the matter back to the Competent Authority to consider the case of the petitioner afresh, specially keeping in view the averments made in the present petition, and pass a fresh speaking order thereon within a period of eight weeks from today.

12. We make it clear that as far as the Medical Board proceedings



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are concerned, as there was no challenge filed thereto by the petitioner, we have not interfered with the categorization of the medical condition of the petitioner by the medical board proceedings. The above order is being passed in the peculiar facts of the present case and should not be treated as a precedent.

13. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 23, 2024/sg/as

Click here to check corrigendum, if any