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

Date of Decision:- 23.07.2024

+ **W.P.(C) 6769/2018**

SACHIN MEENA

.....Petitioner

Through: **Mr. Aman Kanwar, Adv.**

versus

UNION OF INDIA & ORS

.....Respondents

Through: **Mr. Vivek Goyal, Central Govt.
Senior Panel Counsel with Mr. Gokul Sharma and
Mr. Aryan Aggarwal, Adv.**

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

REKHA PALLI, J (ORAL)

1. The petitioner has approached this Court seeking a direction to the respondents to get him examined by an independent Medical Board and, if found fit, appoint him as Navik(GD) in the Indian Coast Guard on the basis of his selection in the 02/2018 batch.
2. Learned counsel for the petitioner submits that upon the respondents inviting applications for filling up the posts of Navik(GD), the petitioner applied and was declared successful in the written test conducted on 21.03.2018. Thereafter, he was found fit in the physical examination



conducted on the same date i.e., 21.03.2018, but in the medical examination conducted on 16.04.2018, he was declared as temporarily unfit on account of *Cubitus Valgus*, *Genu Recurvatum* and unusual stretch marks on the body. Upon an appeal being preferred by the petitioner, he was examined by a Review Medical Board on 29.05.2018 wherein again he was declared unfit; this time on the ground of unusual stretch marks on his body and hypertension. Since the petitioner is a young man who is physically fit in all aspects, he approached the Doctors at AIIMS at New Delhi on 12.06.2018 wherein, he was declared to be fit in all forms and, therefore, approached this Court by way of the present petition. Learned counsel for the petitioner therefore, contends that from the different opinions given by the two Medical Boards conducted by the respondents themselves read with the opinion given by the specialist at AIIMS, it is evident that there is an error of judgment on the part of the doctors who conducted two Medical Boards. He, therefore, prays that the petitioner be directed to be re-examined by an independent Medical Board and if found fit, be appointed on the post of Navik(GD) in the Indian Coast Guard.

3. *Per contra*, learned counsel for the respondents seeks dismissal of the writ petition by urging that in the light of the admitted position that the petitioner had applied for the post of Navik (GD) in 2018, which selection process stood completed in 2018/2019 itself, even if he is now declared medically fit, he cannot be accommodated at this belated stage. Further, once two successive Medical Boards found the petitioner medically unfit, his plea that as per the opinion given by the Dermatologist of AIIMS, New Delhi, he is fit cannot be a ground to determine his medical fitness for joining the armed forces. The specialist of the Coast Guard Forces having



opined that the stretch marks on a person's body can be a sign of damage to connective tissues making it difficult for such a person to withstand the strain of physical training for the post of Navik (GD), no useful purpose would be served in getting the petitioner examined by a fresh Medical Board at this stage. He, therefore, prays that the writ petition be dismissed.

4. Having considered the submissions of the parties and perused the record, we may first deal with the respondents' plea that the writ petition should be dismissed as more than six years have already elapsed since the time the selection process was completed. Though learned counsel for the respondent is correct in urging that six years have elapsed since the selection process took place, we cannot lose sight of the fact that the petitioner had approached this Court well in time. From a perusal of the orders passed by this Court in the present petition from time to time, we are of the considered view that the petitioner cannot be faulted for this Court not being able to decide the writ petition in time. It would be highly unfair to reject the petition merely on account of the same having been pending before this Court since 2018, especially when the petitioner is seeking appointment to the post of Navik (GD), vacancies for which post are regularly advertised from time to time. In these circumstances, we are of the view that the petitioner's prayer cannot be rejected only on the ground of delay in adjudication of the present writ petition.

5. Now, coming to the merits of the present case, having perused the findings given by the initial Medical Board held on 16.04.2018 and the Review Medical Board held on 29.05.2018, we find that though the initial Medical Board had declared the petitioner medically unfit on three grounds i.e., on account of *Cubitus Valgus*, *Genu Recurvatum* and unusual stretch



marks on the body, the Review Medical Board declared him unfit on two grounds; one of them being a new ground of his suffering from hypertension. We have also perused the opinion given by the Dermatologist at AIIMS, New Delhi on 12.06.2018 and are of the opinion that in the light of these three different opinions given by three different doctors, an error of judgement on the part of the Medical Board cannot be ruled out. We are, therefore, of the view that it will be in the interest of justice to grant the petitioner an opportunity to be examined by a fresh Medical Board.

6. At this stage, learned counsel for the petitioner on instructions submits that in case, the petitioner is found medically fit by the fresh Medical Board and is appointed as a Navik (GD), he will neither claim any retrospective seniority nor any consequential benefits and would be satisfied in case he is appointed in the next available vacancy of Navik (GD).

7. The writ petition is, accordingly, allowed by directing the respondents to get the petitioner medically examined by a three member Medical Board by Army Hospital, R & R, New Delhi within a period of 8 weeks. We, therefore, request the Medical Superintendent of Army Hospital, R & R, New Delhi to constitute a three member board, with a senior dermatologist as one of its member. It is, further directed that the opinion of the Medical Board will be binding on both parties and in case, the petitioner is declared medically fit, the respondents will appoint him as a Navik (GD) in the next available vacancy though his eligibility will be examined with respect to the date on which he had applied for the said post. It is, however, made clear that the petitioner will not be entitled to claim any retrospective seniority or any other consequential benefits.



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8. The writ petition stands disposed of in the aforesaid terms.

(REKHA PALLI)
JUDGE

(SHALINDER KAUR)
JUDGE

JULY 23, 2024
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