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

Date of Decision: 16.08.2024

+ W.P.(C) 11679/2018

OM PAL SINGH

.....Petitioner

Through: Ms. Sriparna Chatterjee, Mr.
Soumitra Chatterjee & Mr. Manish,
Advts.

versus

STAFF SELECTION COMMISSION & ANRRespondents

Through: Mr. Ripu Daman Bhardwaj, CGSC
for UOI.
AC Gopal Singh, Ct./GD Mohit
Kumar.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

SHALINDER KAUR, J (ORAL)

1. The petitioner, who was aspiring to join the Central Armed Police Force (CAPF) as a Sub Inspector/ Assistant Sub Inspector having applied for the same, pursuant to the advertisement issued by the Staff Selection Commission on 15.05.2017, has approached this Court under Article 226 of the Constitution of India, being aggrieved by the respondents' decision holding him medically unfit on account of his having undergone LASIK (laser-assisted in situ keratomileusis) surgery for treatment of his defective eye-sight.



2. To assail the findings of the Medical Board of the Border Security Force (BSF) at Jalandhar dated 10.04.2018 and that of the Review Medical Board dated 10.08.2018, Ms. Sriparna Chatterjee, the learned counsel for the petitioner submits that the petitioner has erroneously been held as medically unfit only on account of his having undergone LASIK surgery and has thereby wrongly been excluded from the selection process. She submits that LASIK surgery cannot be a ground for declaring a candidate as medically unfit for appointment to the CAPF.

3. By relying on paragraph 11(C) of the advertisement issued by the respondent no.1 inviting applications, she submits that the same only provided that *“The minimum distant vision should be 6/6 and 6/9 of two eyes without correction i.e. without wearing of glasses.”* Her plea being that once the advertisement clearly stated that the vision was to be tested without glasses, it was evident that correction with LASIK surgery was not a disqualification. She, therefore, contends that the respondents cannot now be permitted to rely on the guidelines for medical examination to urge that a person who had undergone LASIK surgery would not be treated as medically fit. This, she claims would amount to changing the rules of the game after having invited applications. Further, even the guidelines do not specifically bar candidates who have successfully undergone LASIK surgery and therefore, prays that the writ petition be allowed.

4. On the other hand, Mr. Ripu Daman Bhardwaj, learned counsel for the respondents seeks dismissal of the writ petition by urging that the detailed guidelines issued by the Ministry of Home Affairs for examination of candidates for recruitment to the CAPFs clearly provide that no correction of any kind would be acceptable for determining the visual acuity of a



candidate. He, therefore, contends that once it is an admitted position that the petitioner had undergone LASIK surgery, he would be automatically ineligible for being recruited in the CAPFs.

5. Having considered the submissions of learned counsel for the parties and perused the record, we find that it is undisputed that the petitioner qualified the written examination and was also declared successful in the physical endurance and standard tests. It is also an admitted position that the petitioner's distant vision was now found to be 6/6 in both eyes but he has still been held to be medically unfit on account of his having earlier undergone LASIK surgery. Since, it is the respondents' case that despite this condition not being specifically mentioned in the advertisement, all candidates were aware that their medical examination would be as per the guidelines laid down by the Ministry of Home Affairs, it would be apposite to refer the relevant extract of the revised guidelines for Recruitment Medical Examination in the CAPFs and Assam Rifles issued in May 2015. The same reads as under:

Table-3: VISUAL STANDARDS FOR DIRECT ENTRY SOs & Ors IN CAPFs, NSG&ARs

Sl. No	Category	Visual Acuity unaided (NEAR VISION)		Uncorrected visual acuity (DISTANT VISION)		Refrac tion	Color Vision	Remarks
		Better eye	Worse eye	Better eye	Worse eye			
01	Ors & SOs Age at the entry: 18-35 years	N6	N9	6/6	6/9	Visual correcti on <u>of</u> <u>any</u> <u>kind</u> is not permitt	CP III BY ISIHA RA	-In right handed person, the Right eye is better eye and vice versa. –



						ed even by glasses.		Binocular vision is required
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(Emphasis supplied)

6. From the aforesaid extract, it is clearly evident that visual correction of any kind is not permitted. The fact that this clause specifically provides that visual correction even by glasses is not permitted, would not imply as is sought to be urged by the petitioner, that correction of all other kinds would be acceptable. The petitioner is desirous of joining a CAPF where the medical fitness of the highest standard is required and therefore, once the applicable guidelines clearly prescribe that no visual correction is acceptable, the petitioner having undergone correction through LASIK Surgery cannot unfortunately be declared as fit. The respondents' having framed detailed guidelines to determine the medical fitness of persons desirous of joining the CAPF, it is not for this Court to determine as to what standard of medical fitness should be prescribed.

7. In these circumstances, even though we are in agreement with the learned counsel for the petitioner that the advertisement did not clearly provide that persons with LASIK surgery would not be treated as medically unfit, we are of the view, that once the guidelines clearly provide that visual correction of any kind is not acceptable, the medical fitness of the petitioner had to be determined in accordance with these guidelines alone. We may note that these guidelines have not been challenged by the petitioner.

8. For the aforesaid reasons, the decision of the respondents to hold the petitioner as medically unfit cannot be said to be arbitrary or illegal in any manner and therefore, we are unable to grant any relief to the petitioner. However, before we conclude, we are of the view that taking into account



the advancement in technology when LASIK surgeries, especially of the eyes are being routinely conducted even in small eye clinics without any side effects, it is time that the respondents should consider amending their guidelines in consultation with Ophthalmologists.

9. We, accordingly, dismiss the writ petition with the aforesaid terms.

10. We, however, do not deem it appropriate to issue any direction in this regard.

(SHALINDER KAUR)
JUDGE

(REKHA PALLI)
JUDGE

AUGUST 16, 2024/ab