

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**W.P.A. 10104 of 2014  
With  
CAN 3 of 2015 (Old No. CAN 4776 of 2015)  
With  
CAN 4 of 2016 (Old No. CAN 9987 of 2016)  
With  
CAN 5 of 2016 (Old No. CAN 12376 of 2016)  
With  
CAN 6 of 2020**

**Chandrakant Kumar  
-Vs-  
Union of India & Ors.**

|                          |                                                                        |
|--------------------------|------------------------------------------------------------------------|
| For the Petitioner       | : Mr. Shamik Chatterjee<br>Mr. Aditya Bikram Mahata<br>Mr. Sahil Kabir |
| For the Respondent No. 2 | : Mr. Soumya Majumder<br>Mr. Victor Chatterjee                         |
| Heard on                 | : 11.06.2024, 03.07.2024, 10.07.2024                                   |
| Judgment on              | : 16.05.2025                                                           |

**Ananya Bandyopadhyay, J.:-**

1. The petitioner was engaged as an Assistant Officer (Fire and Safety) at the Indian Oil Corporation Limited (IOCL) from 9th January 2009 to 31st March 2013. An advertisement was published for recruitment to the post of Junior Engineering Assistant in Group-IV (Fire and Safety), which was open to candidates from the General and OBC categories. The petitioner, belonging

to the OBC category and claiming to possess the requisite qualifications and age criteria as set out in the advertisement, applied for the said post. He successfully cleared the written examination held on 24th March 2013 and was called for an interview on 25th March 2013. On 29th March 2013, he was provisionally shortlisted for appointment to the post.

2. Pursuant to the provisional shortlisting, the petitioner was called for a pre-employment medical examination scheduled for 10th June 2013 at the Haldia Refinery Hospital. On 3rd July 2013, he was declared medically unfit by the Chief Medical Officer on the ground of deformity and shortening of the right leg due to a malunited fracture with anterior angulation. The petitioner applied for a review of the medical findings on 6th July 2013. The review application was considered by the same medical board and rejected by an order dated 13th August 2013.
3. The petitioner contended that the medical standards applied in the selection process were not disclosed in the recruitment advertisement and were made known to him only after the provisional shortlisting. He claimed that he had previously discharged duties in a similar role within IOCL and had successfully undergone physical tests during his prior employment. The petitioner further alleged procedural unfairness in the review process, as the same panel of doctors who conducted the initial examination were responsible for the subsequent review.
4. It was submitted on behalf of the petitioner that another candidate, Yagyaveer Singh, who had applied under the unreserved category, was appointed to the post in question under the reserved OBC category following

the petitioner's disqualification. The petitioner raised concerns regarding procedural irregularities and alleged discriminatory treatment. It was also submitted that the medical standards relied upon were introduced after the commencement of the selection process and were not part of the original recruitment advertisement.

5. The respondent authority submitted that the physical requirements for the Fire and Safety post were prescribed in accordance with the internal guidelines in place since 2008, and that the petitioner, by appearing for the medical examination, was aware of the standards. It was further submitted that the duties associated with the post are physically strenuous and require strict adherence to medical fitness norms. The authority also stated that the vacancy in the OBC category was directed to remain unfilled by order of this Court, pending adjudication.
6. In support of the procedure followed, the respondents asserted that the petitioner was served with the necessary intimation for medical examination and was advised of the grounds of rejection following a query under the Right to Information Act, 2005. The respondents maintained that the review was conducted in accordance with protocol and the disqualification was based on objective medical assessment relevant to the duties of the post.
7. The Learned Advocate appearing for the petitioner submitted that the qualifications for medical disqualification were not outlined in the advertisement for the post of Junior Engineering Assistant (Fire and Safety) issued by Indian Oil Corporation Limited. It was submitted that the criteria for medical ineligibility were only disclosed after the petitioner had

undergone the selection process and was provisionally shortlisted. The petitioner, having previously worked in the same field for a duration of three years and having qualified in all prescribed physical tests, sought to contend that the existing physical condition did not impede his ability to discharge the duties associated with the post. The review of his medical disqualification was also undertaken by the same medical authority which had initially declared him unfit, raising concern over the fairness of the process.

8. It was further submitted that the petitioner had successfully undergone a series of physical assessments including a 100-meter run and ladder exercises which were designed to test the physical competence of applicants. The Learned Advocate for the petitioner argued that the petitioner's replacement by one Yagyaveer Singh, a candidate from the General category who was subsequently appointed to a reserved category post, was irregular and noted to have been referred to in the order of a Co-ordinate Bench of this Court dated 02.12.2016. On 02.12.2016, an interim order was passed directing Respondent No. 2 to keep one post under the OBC category vacant, which stood vacated following the dismissal of the matter for default. Subsequently, by order dated 18.04.2024, this Court directed that one post in the said category remain vacant pending adjudication.
9. The Learned Advocate representing the petitioner further submitted that the guidelines regarding medical fitness were not notified at the time of the advertisement in 2012 and were introduced only in later years. It was urged that the introduction of new eligibility norms midway through the selection

process could not operate retrospectively to the disadvantage of candidates who had complied with the initial advertisement. It was also pointed out the recruitment advertisement did not include any column seeking disclosure of physical disabilities, nor were the criteria regarding physical fitness expressly stated therein.

10. It was further contended the medical review was not conducted afresh, as required, but by the same examining authority, thereby defeating the purpose of independent reassessment. The petitioner relied on precedents including *Rajeev Kumar Gupta and others vs. Union of India and ors.*, (2016) 13 SCC 153; *Union of India vs. National Federation of The Blind & Ors.*, (2013) 10 SCC 772; *Anil Kishore Pandit vs. State of Bihar and Others*, 2024 SCC OnLine SC 332; *Tej Prakash Pathak & Ors. vs. Rajasthan High Court & Ors.*, (2013) 4 SCC 540; and *Manjusree vs. State of Andhra Pradesh & Anr.*, (2008) 3 SCC 512.
11. The submissions emphasized that any alteration in the criteria for eligibility must be prospective and fairly disclosed in the recruitment notice. The Learned Advocate for the petitioner also questioned the appointment of a General category candidate to a reserved OBC category post without compliance with the applicable roster points or approval from the competent authority. It was submitted that such appointment was void and that the disqualification of the petitioner on medical grounds without a transparent review amounted to denial of equal opportunity in public employment.
12. The Learned Advocate representing Respondent No. 2 submitted that the selection procedure for the post of Junior Engineering Assistant (Fire and

Safety) in Indian Oil Corporation Limited was comprised of a written test, trade test, personal interview, and a mandatory pre-employment medical examination. It was stated that the criteria for medical fitness, revised by the Corporation and implemented with effect from 3rd September, 2008, were applicable to all recruitment processes thereafter. The guidelines had been available on the Corporation's website under Clause 6.15 and could be accessed by any prospective candidate. Accordingly, the petitioner was informed by letter dated 24th March, 2013, that he would be required to appear for the said medical examination. The petitioner was found medically unfit on 3rd July, 2013, and the decision was communicated to him vide letter dated 13th August, 2013. Subsequently, information sought by the petitioner under the Right to Information Act also reiterated the finding of medical unfitness on account of the stated leg deformity.

13. It was submitted that the medical review, contrary to the allegations, had not been conducted by the same medical authority. Further, it was contended that a supplementary affidavit was filed by the respondent clarifying the status of one Yagyaveer Singh, who was initially stated to be an OBC category candidate but was later confirmed to be an Unreserved (UR) category candidate. The Learned Advocate for Respondent No. 2 submitted that the 2016 recruitment cycle did not include any reserved post for OBC candidates and the appointment was concluded against a general category vacancy. It was also contended that although an order was passed on 02.12.2016 directing one post be kept vacant in the OBC category, such interim direction stood vacated upon dismissal of the matter for default.

14. The Learned Advocate argued that the medical fitness standards had been in place well before the initiation of the recruitment process in question, and thus, the petitioner's contention regarding change of rules midway was not applicable in the instant case. It was submitted that the petitioner had voluntarily participated in the medical examination with full knowledge of the applicable criteria and could not subsequently raise objections. In this context, reliance was placed on (1998) 3 SCC 694 [para. 13], to support the principle of estoppel by conduct.
15. It was also pointed out that the medical report following review revealed a surgical scar on the leg of the petitioner which may have developed subsequently. The respondents contended that the existence or availability of the medical guidelines on the Corporation's website was a matter of fact which could not be adjudicated conclusively in writ jurisdiction, relying upon (2023) 2 SCC 703 [para. 82.7].
16. The advertisement had specified the minimum physical standards necessary for the post but did not obviate the relevance or applicability of broader medical fitness norms. Given the nature of duties associated with the role, which include operation of fire pumps, manual valve operations, control room functions during emergencies, foam tank refilling, use of breathing apparatus, and driving responsibilities both within and outside the refinery, the imposition of medical standards was justified.
17. The Learned Advocate for Respondent No. 2 further submitted that in light of the nature of the duties involved, the employer retained the discretion to prescribe physical fitness norms. It was argued that the Corporation, being

best positioned to assess operational requirements, was entitled to determine appropriate eligibility standards for candidates. Reliance was placed on AIR 1956 SC 520 [para 4] in support of the employer's authority to frame such standards having regard to the functional exigencies of the post.

18. On an analysis of the facts and arguments of both the parties, the following is apparent. The petitioner had been employed as an Assistant Officer (Fire and Safety) at Indian Oil Corporation Limited from 9th January 2009 to 31st March 2013. He applied for the post of Junior Engineering Assistant in Group-IV (Fire and Safety) under the OBC category pursuant to an advertisement inviting applications from eligible candidates. The petitioner qualified in the written examination held on 24th March 2013 and appeared for the interview on the following day. He was provisionally shortlisted for the position on 29th March 2013 and was subsequently directed to appear for a pre-employment medical examination at the Haldia Refinery Hospital on 10th June 2013. On 3rd July 2013, he was declared medically unfit due to a leg deformity, and upon his request for review, the same was rejected by order dated 13th August 2013. The petitioner raised objections to the review process, contending that the same medical board had conducted both the original and review assessments. It was further submitted that the physical requirements for disqualification had not been indicated in the advertisement and were only communicated after the selection process had advanced. The petitioner referred to his earlier experience in a similar role and performance in the physical tests as evidence of his ability to discharge

duties under the post. He also raised grievance regarding the appointment of one Yagyaveer Singh, originally an unreserved category applicant, to the reserved OBC vacancy following his own disqualification, a fact which was noted in earlier proceedings. An interim direction to keep the OBC post vacant was issued on 02.12.2016 and reiterated by order dated 18.04.2024.

19. The Learned Advocate for the petitioner argued that the medical disqualification criteria were not disclosed in the advertisement at the time of publication and were instead communicated only after the petitioner was provisionally selected. It was urged that the petitioner had previously served in the same field for three years and had successfully passed all physical tests required for the post. Concern was also raised over the fact that the same medical authority had conducted both the initial and review assessments, raising apprehension of fairness. It was submitted that the guidelines relating to medical standards were introduced only after the recruitment process had commenced and could not retrospectively disqualify a provisionally selected candidate. The Learned Advocate for the petitioner further submitted that the appointment of a general category candidate in a reserved post without adherence to roster points or necessary approvals was irregular. Reliance was placed on various precedents to assert that the eligibility criteria and recruitment procedures must align with the conditions specified in the advertisement and could not be altered midway.
20. The Learned Advocate for Respondent No. 2 argued that the recruitment process comprised a written test, trade test, interview, and a mandatory

medical examination. The physical standards applicable to the post were framed by the Corporation in 2008 and were in effect at the time of the petitioner's application. It was submitted that these guidelines were uploaded on the Corporation's website and accessible to all candidates. The petitioner had been informed of the requirement to undergo medical examination by letter dated 24th March 2013, and the result of the medical board was communicated to him on 13th August 2013. The respondents denied that the same doctors conducted the review and initial examinations and maintained that the disqualification was made on objective assessment relevant to the post. The Learned Advocate for the respondents further submitted the appointment of Yagyaveer Singh had been clarified by a supplementary affidavit indicating that he was appointed under the general category and not as an OBC candidate. It was submitted that no reserved vacancies existed for OBC candidates in the relevant recruitment cycle and that the interim order reserving a vacancy stood vacated following dismissal of the matter. It was further argued that the nature of duties associated with the post required strict physical fitness and the employer was within its rights to determine job-specific standards in light of operational exigencies.

21. The respondent Indian Oil Corporation had rightly conformed to the stipulations and procedures necessary for conduction of the appointment to the post of Junior Engineering Assistant, the petitioner being an applicant therein. The provisional appointment granted in favour of the petitioner does not confirm a vested right to such appointment in absence of

fulfillment of eligibility criteria as enumerated under the rules of appointment. However, the record revealed by dint of an order passed by the Coordinate Bench of this Court a post had been secured vacant to accommodate the petitioner subject to the decision of the instant writ petition.

22. The petitioner had confronted his medical disability to have been assessed by two consecutive medical boards constituted by the same person which had been refuted by the respondent IOC. However, the record did reveal Dr. PS Chattopadhyay, MS Ortho visiting Orthopedic Surgeon Refinery Hospital, Haldia to have examined the petitioner at the pre employment check-up stage. The same doctor was also nominated by CMO, Haldia Refinery Hospital who had been a member of the medical board constituted.
23. After the petitioner preferred an appeal on 6.07.2023, the medical board reviewed the medical condition of the petitioner on 9.08.2013. The petitioner pleaded biasness on the ground of the same doctor being part of the medical board who had earlier opined him to be medically unfit at the pre-employment stage. To obliterate the possibility of biasness and any form of apprehension to the prejudice of the petitioner, he is directed to appear before a medical board to be constituted by the CMOH/MS of the SSKM Hospital to conduct the medical examination of the petitioners independently.
24. The Learned Registrar General, High Court at Calcutta is directed to forward a copy of the order to the CMOH/MS of SSKM Hospital to constitute a medical board within ninety days of communication of this order. The

recorded address of both the petitioner and the respondents should be intimated to the CMOH/MS of the SSKM Hospital for future communication. The aforesaid hospital authorities will serve a notice upon the petitioner at his recorded address instructing him to appear before the constituted Medical Board on the date fixed positively without fail.

25. The opinion of the medical board so constituted shall be final. The respondent Indian Oil Corporation is to grant appointment to the petitioner and/or reject the said appointment based on the opinion of the medical board through a reasoned order within sixty days of receipt of the medical opinion from the CMOH/MS of SSKM Hospital. The CMOH/MS of the SSKM Hospital is requested to serve a copy of the opinion/observation of the medical examination of the petitioner within thirty days of such medical examination, both to the petitioner as well as the respondents.
26. Accordingly, WPA 10104 of 2014 along with its connected applications stand disposed of.
27. There is no order as to costs.
28. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

**(Ananya Bandyopadhyay, J.)**