

2025:PHHC:063577



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-7293-2021
Date of decision: 13.05.2025**

RAVI

.....Petitioner

VERSUS

UNION OF INDIA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Gopal Sharma, Advocate
for the petitioner.

Mr. Parvesh K. Saini, Senior Panel Counsel
for respondent- Union of India.

VINOD S. BHARDWAJ, J. (Oral)

The present writ petition seeks setting aside of the rejection Slip dated 15.02.2021 issued by the Director Recruiting, Army Recruiting Office, Rohtak and praying that the respondents should reconsider the claim of the petitioner in light of the medical examination report submitted by the Army Base Hospital, Ambala, pursuant to the order passed by this Court, wherein the petitioner has been declared as medically fit to undergo further training at the station that had been allotted to him.

2. Learned Counsel appearing on behalf of the petitioner contends that the respondent- Director Recruiting, had published a recruitment notice in December 2019, inviting applications from eligible candidates for the posts of Soldier General Duty, Soldier Clerk/SKT (Store Keeper Technician), Soldier TDN (Sports Staff). The petitioner participated in the

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recruitment rally held from 10.02.2020 to 20.02.2020 and cleared the physical test held on 15.02.2020. He was found to be medically fit and was hence declared successful. He was thus selected for participating in the written test to be held through the Common Entrance Examination.

3. The petitioner appeared in the said written examination held on 01.11.2020 and he was declared successful in the result declared on 26.11.2020. The respondents thereafter asked the petitioner to submit the original documents for verification. The same were also verified whereupon the petitioner was approved for the Centre for Training at Hyderabad, i.e. Arty Centre, Hyderabad, as Clerk Staff Duties. The Director Recruiting, however called the successful candidates again for further medical examination and final dispatch drill before dispatching them to the training Centre. The petitioner was again medically examined on 26.12.2020; however, due to an injury/scar on the right foot of the petitioner, respondent No.3 directed him to undergo an X-ray and referred him to a private hospital. A report was submitted by the Narula Diagnostic Centre, and as per information conveyed, a foreign body was detected anterior to the Tarsal Bone in the petitioner's right foot. Petitioner's case was then sent to the Zonal Recruiting Office, Ambala, where he was directed to visit the Military Hospital, Ambala, on 13.01.2020. In the medical examination conducted by the Military Hospital, Ambala, no X-ray of the right foot was done despite repeated requests. The petitioner was later sent back by the Zonal Recruiting office. The petitioner was not dispatched to the training Centre and on the enquiries it was informed that the X-ray report of the petitioner's right foot



was under consideration. Eventually, a rejection slip dated 15.02.2021 was handed over to the petitioner, declaring him unfit on account of failing the medical examination. Aggrieved thereof, the present writ petition was filed.

4. The matter was listed for further hearing on 08.04.2021, when the following order was passed.

“Taken up through video conferencing.

Reply on behalf of respondent Nos.1 to 3 has been filed in Court today.

Learned Senior Panel Counsel for Union of India states that since the grievance of the petitioner is that no X-ray was done and still the petitioner was declared medically unfit on the ground that there was a foreign body seen anterior to tarsal bone of right foot, the petitioner may appear before the Graded Specialist at Military Hospital, Ambala Cantt. on 30.04.2021 at 10 A.M. for review medical examination.

The learned counsel further states that a fresh X-ray of the petitioner will be got done and he will be evaluated by the Graded Specialist at Military Hospital, Ambala Cantt. Learned counsel for the Union of India, has also pointed out that the petitioner may have got the foreign body subsequently removed from his foot and the second X-ray report produced by him from Pt. B.D. Sharma, PGIMS, Rohtak may be post the said removal.

In view of the fair stand taken by the counsel for Union of India, the petitioner is directed to appear before the Graded Specialist at Military Hospital, Ambala Cantt. on 30.04.2021 at 10 A.M. for review medical examination. In view of the apprehension expressed by the learned counsel for the Union of India, the petitioner



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would also submit an affidavit stating therein that he has not undergone any surgical procedure to remove any alleged foreign body from his right foot.

List on 10.05.2021.”

5. Given the fair stand of the respondent-Union of India for a fresh X-ray examination and evaluation, the petitioner was directed to appear before the Medical Specialist, Military Hospital, Ambala Cantt. He contends that his medical examination was conducted again by the Military Hospital, Ambala Cantt. and no foreign body was detected in his foot. It is thus argued with vehemence that the petitioner was wrongly declared medically unfit due to presence of a foreign body but the medical record produced by the petitioner consistently shows that there is no functional deficit and that he is medically fit to perform all the duties. The respondents should thus consider the petitioner as having validly qualified, and he should be permitted to undergo further training at the Station that was originally allotted to him. He further places reliance on the Division Bench judgment of the High Court of Delhi in the matter of **“Satish versus Union of India and others”** reported as **2013 SCC OnLine Del 6416**.

6. Learned Counsel appearing on behalf of the respondent, however, places reliance on the written statement filed by way of an affidavit of Capt Arun S and submits that the initial medical examination of the petitioner was conducted on 17.02.2020. Since he was to be dispatched in December 2020, he was medically re-examined before being sent by the recruiting Medical Officer, Army Recruiting Office, when a "Foreign Body Seen Anterior to Tarsal Bone Right Foot" was detected. Since the Army



Recruiting Office, Rohtak is located in a non-military station and there is no facility of a Military Hospital, hence, the petitioner was advised to get an X-ray of his right foot carried out from the Civil Hospital, Rohtak. The X-ray of the right foot was accordingly obtained from Narula Diagnostic Centre, which confirmed the disability of "Foreign Body Seen Anterior to Tarsal Bone Right Foot". He was accordingly referred to the Senior Recruiting Medical Officer, Headquarters Recruiting Zone, Ambala, who also confirmed the said disability and referred him to the Medical Specialist, Military Hospital, Ambala, for his opinion. The petitioner was eventually declared unfit for the aforesaid reason by the Graded Specialist, Military Hospital, Ambala Cantt, and was thus rejected for further recruitment, being medically unfit.

7. Counsel contends that the presence of the foreign body has been established from three reports of the Military establishment and one Civil doctor. He contends that the petitioner got the above-mentioned foreign body removed and thereafter, got himself examined at PGIMS. It is submitted that the rejection of the petitioner's claim was thus rightly done by the respondents, and as the petitioner was not fit, his case has been rightly rejected.

8. It is further argued by the Counsel for the respondent-State that the petitioner had given a Certificate during the primary medical examination that he had not undergone any surgical procedure and he still defends his above position whereas, his surgery is apparent and is reflected from the photographs that have been appended along with the present reply.



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With regards to the applicability of the judgment of the Division Bench of the Delhi High Court in Writ Petition (Civil) 5783 of 2017 titled as '***Subodh Kumar vs Union of India and Anr***' decided on 20.12.2017, Counsel contends that the same would not apply to the facts of the present case as there were three different opinions whereas the case in hand delivers a concurrent opinion.

9. No other argument has been advanced by the Counsel for the respective parties, nor any other judgment cited.

10. Counsel for the respondents has been confronted with the subsequent developments, i.e. the examinations of the petitioner at the Military Hospital, Ambala Cantt, pursuant to the order dated 08.04.2021 passed by this Court, wherein it was reported that no foreign body element was present in the body.

11. Counsel for the respondents does not dispute the same, however, he contends that the said foreign body element might have been removed by the petitioner subsequently. However, when questioned as to what would the scenario be once the prime reason for a candidate being declared medically unfit ceases to exist, Counsel for the respondents is unable to refer to any rules or instructions. Further query had been put to the Counsel for the respondents as to what possible prejudice may occasion in case a person who has received certain injury, recovers from the same and as to whether a person can be declared permanently medically unfit solely because of the said reason, he pleads ignorance of the rationale behind such rejection and non-consideration even after the disability ceases to exist. He

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however expresses that with time, the petitioner might have developed any other physical disability. Such an objection does carry some weight as the impugned order was passed in the year 2021, and nearly 04 years have elapsed in the meanwhile. However, it is a cardinal principle of law that merely because the writ petition remained pending for a substantive period before this Court, the same should not be perceived as a reason to deny consideration to which the petitioner may otherwise be eligible.

12. The burden to establish that a selected candidate is unfit lies on the respondents. The failure on the part of the respondents to refer to the applicable rules and standards prescribing the disqualification would lead to an inference against them. He failed to respond as to whether any specific nature of surgery is a disqualification or all/any surgery would render a candidate unfit. Counsel is not in a position to submit a response.

13. He has also been confronted with the subsequent report, pursuant to the order passed by this Court, which holds the petitioner medically fit. It has been specifically put to the Counsel that once the medical re-examination has been conducted by the Graded Specialist of the Military Hospital, Ambala and he has been reported fit, how can such a report be completely ignored once the medical re-examination was got conducted on the statement of the respondents themselves, he has no satisfactory response.

14. Under the given circumstances, I deem it fit and appropriate at this juncture to dispose of the present writ petition with a direction to the respondent No.2-Director Recruiting, Zonal Recruiting Office, Ambala to



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re-examine the physical fitness of the petitioner and to also conduct medical tests for ascertaining the loss of physical endurance or any other medical disability that the petitioner might have developed during the pendency of the present writ petition. The petitioner shall appear on **04.08.2025** before the Director Recruiting, Zonal Recruiting Office, Ambala, whereafter the respondent No.2- Director Recruiting, Zonal Recruiting Office, Ambala shall proceed to determine the physical and medical fitness of the petitioner and take an appropriate decision considering the reports. Needless to mention that in the event of the petitioner qualifying the physical as well as medical standards prescribed by the respondents, the petitioner shall be offered appointment in terms of his selection, however, the petitioner shall not be entitled to the actual benefits for the interregnum period but the said period shall be counted only for notional benefits by excluding actual seniority or experience.

15. Needless to mention that the respondents shall not take any objection to the petitioner becoming over age during the pendency of the present writ petition.

MAY 13, 2025
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No