



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

229

CWP-24736-2022 (O&M)

Date of decision: 05.02.2025

Brinder Singh

...Petitioner

VERSUS

The Union of India and others

...Respondents

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

Present :- Mr. R.D. Bawa, Advocate with
Mr. Randhir Bawa, Advocate;
Mr. Rishabh Rana, Advocate;
Mr. Samuel Gill, Advocate for the petitioner.

Mr. Shivoy Dhir, Sr. Panel Counsel,
for respondent-UOI.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenging the orders dated 22.07.2022 and 04.08.2022 whereby the candidature of the petitioner for appointment to the post of DVR MT (OG) was rejected on the ground of medical deformity in the little finger of the left hand, the petitioner has approached this Court.

2. Learned counsel appearing on behalf of the petitioner contends that Surjeet Singh, Ex.-GS 159737F, Overseer-the father of the petitioner, died while serving in the General Reserve Engineer Force (GREF) on 16.11.2016. The same being an integral part of the Armed Forces, the petitioner and his mother were advised by the officials of respondents to nominate a person of their family, a dependant on deceased-Sh. Surjeet Singh, for compassionate appointment. Hence, the name of the petitioner



was nominated by his mother, he accordingly applied for the post of DVR MT (OG) in the quota of compassionate appointment. The respondent-GREF accordingly called the petitioner for recruitment in GREF on compassionate grounds for trade test and medical examination for the said post vide letter dated 08.03.2022. He contends that the petitioner is in possession of a driving license for heavy transport vehicle and had also served as a Driver for three years with Ludhiana Stone Crushers, Punjab from 01.01.2018 to 31.12.2021 for driving heavy transport vehicle. The petitioner had also worked in Saudi Arabia from Feb.-2014 to May-2016 and rendered his services as a Driver.

3. The petitioner was provisionally selected for appointment to the post of DVR MT (OG) but he was declared medically unfit on medical examination due to “Fixed Finger Deformity Lt. Little Finger” as communicated vide letter dated 22.07.2022 (Annexure P-3). The operative part of the aforesaid letter whereby candidature of the petitioner was cancelled for the post of DVR MT (OG) is re-produced hereinafter below:-

“You were provisionally selected for the post of DVRMT (OG) against Advt. No.VAC FOR YEAR-2019 under SC category and accordingly you had reported for primary medical examination at this Centre on 18 APR 2022 and undergone the primary medical examination, which was carried out on 23 APR 2022 by the Board of Medical Offices. After primary medical examination, you were, declared medially unfit due to “FIXED FINGER DEFORMITY LT LITTLE FINGER ” by the panel of Medical Board of Officers. As per the procedure, your review medical carried out on 22.06.2022 and declared “UNFIT” by



OIC Rtg Review Medical Exam, MH, Kirkee on 27.06.2022.”

4. Learned counsel appearing on behalf of the petitioner contends that consequently, the order dated 04.08.2022 was conveyed cancelling the claim of the petitioner for compassionate appointment.

5. It is argued by the learned counsel appearing on behalf of the petitioner that the petitioner in his childhood had suffered an injury on his little finger of the left hand, that already stands cured, and does not cause any impediment on his work on any count whatsoever and has no impact on his driving skills under any working conditions. The petitioner has also got checked his little finger of left arm from the Civil Hospital, Ropar and the Medical Officer Orthopedics has certified that his little finger of left hand does not cause any infirmity in his efficiency as a Driver for driving the vehicle. The OPD Card alongwith Certificate dated 13.10.2022 pertaining to the medical fitness of the petitioner issued by the Civil Hospital, Ropar is extracted as under:-

“Lt. Hand little finger post traumatic contracture. In my opinion patient can do driving without any hindrance and discomfort”

6. Learned counsel appearing on behalf of the petitioner contends that the reason given by the respondents for rejection of the candidature of the petitioner is misconceived since the medical standards for recruitment in GREF, as notified by the respondents, prescribes the grounds for permanent rejection. Under Clause 8 (V) of Rules Governing Medical Inspection of



Candidates in GREF, any amputation effecting the working efficiency of an individual has been held to be a ground for permanent rejection. The same is extracted as under:-

“Grounds for permanent rejection

8. ***Candidates presenting with following conditions will be rejected:***

xxxx

v). ***Any amputation effecting in the working efficiency of individual.”***

7. Referring to the above, counsel for the petitioner, has vehemently argued that even an amputation would not a render a candidate ineligible for an appointment unless such amputation effects the working efficiency of an individual. Under the above prescribed standard, a mere reference to certain difficulty in movement of little finger of the left hand cannot *ipso-facto* be a ground for declining an appointment, more so when the respondents have no where opined or recorded in the order of the medical examination that such fixed finger deformity has any effect on the working efficiency of the petitioner. It is contended that in the absence thereof, the same could not be a ground for declaring the petitioner medically unfit.

8. Learned counsel appearing on behalf of the respondents has, however, argued that even though the list of events as extracted above are not a subject matter of dispute and that during the medical examination of



the petitioner was conducted wherein he was declared unfit in primary medical examination as well as in review medical conducted by the authorities, due to the fixed finger deformity in the left hand little finger and not due to any amputation. He further contends that since the employees in the GREF/Border Road Organisation are required to work at High Altitude areas and that too under harsh/extreme weather conditions, hence, there are bound to be difficulties in carrying out operations of the mechanical vehicle and it was for this reason that the candidature of the petitioner has been rightly rejected. No other argument has been advanced.

9. On being questioned, as to whether any finding has been recorded by the respondents that the aforesaid impediment i.e. fixed finger deformity in the left little finger would effect the working efficiency or would have a prejudicial impact thereon, while working in high altitude areas, learned counsel appearing on behalf of the respondents contends that it has to be normally presumed that there would be such a difficulty with the persons suffering from such a deformity.

10. Having heard the learned counsel for the parties, I am afraid that such a reason cannot be supplanted. The uniform physical standards prescribed by the respondents themselves specify the nature of the physical/medical conditions that would form the basis for rejection of a candidature. On a *prima facie* consideration, even an amputation of any body part cannot be held to be a cause for automatic rejection and it becomes a ground for rejection when it effects working of such individual.



In said circumstances, there cannot be a presumption that a fixed finger deformity of the left little finger to the extent of 3% would have effect on the working efficiency to an extent of providing a ground for permanent rejection of the candidature of the petitioner. It was imperative for the Medical Board to record as to how and under what circumstances the said deformity of left little finger would have a prejudicial impact in the working efficiency of the petitioner. In the absence of any such finding having been recorded by the Medical Board or the review Medical Board, such a reason cannot be supplanted during the course of argument or be read into a medical examination. The same are to be borne out from the reasons as recorded. Learned counsel appearing on behalf of the respondent-UOI has also failed to refer any medical literature to support his aforesaid view.

11. Considering it from either of the perspectives, I find that the rejection of the petitioner on the aforesaid ground, in the absence of recording any finding as to how and in what manner such deformity is likely to effect working efficiency of an individual, same would not be valid for rejection/cancellation of the candidature of the petitioner for appointment to the post of DVR MT (OG) by the respondents.

12. The present writ petition is accordingly **allowed** and the orders dated 22.07.2022 and 04.08.2022 whereby the candidature of the petitioner for appointment to the post of DVR MT (OG) was rejected on the ground of alleged medical deformity in the little finger of the left hand, are set aside.

The respondents are further directed to carry out a re-medical examination of



229 CWP-24736-2022 (O&M)

the petitioner and in the event of aforesaid deformity not causing any effect on the working efficiency of the petitioner, the consequential appointment be given expeditiously and preferably within a 03 months of receipt of such report. In the event of the report being against the petitioner, a copy thereof be supplied to him, who shall then be at liberty to pursue his remedies as per law.

13. The petitioner shall appear before the respondent-authorities (Commandant, GREF Centre, Pune) on 20.03.2025 whereupon the petitioner shall be subjected to medical examination.

(VINOD S. BHARDWAJ)
JUDGE

05.02.2025
Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No