



2025:DHC:190-DB



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

Date of decision: 15.01.2025

+ **W.P.(C) 483/2025**

ESAIYA KERKETTA

.....Petitioner

Through: **Mr. Prahil Sharma, Adv.**

versus

UNION OF INDIA AND ORS

.....Respondents

Through: **Ms. Richa Dhawan, Mr. Anuj Chaturvedi, Ms. Harshita Maheshwari and Mr. Pawan Karan Deo, Advs.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 2238/2025 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 483/2025 and CM APPL. 2237/2025

3. This petition has been filed by the petitioner challenging the report of the Detailed Medical Examination (in short, 'DME') dated 11.12.2024, and the Review Medical Examination (in short, 'RME') dated 16.12.2024, by which the petitioner has been declared '*Unfit*' for appointment to the post of Assistant Sub-Inspector (Executive) in



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the Limited Departmental Competitive Examination-2022 ('LDCE-2022').

4. The DME, *vide* its report dated 11.12.2024, had declared the petitioner '*Unfit*' for appointment on account of the petitioner suffering from:-

'Hypopigmentation on prepuce of penis'

5. The petitioner applied for RME, however, was again declared '*Unfit*' by the Impugned Report dated 16.12.2024, observing as under:-

"2) Brief of Review Medical Examination & Finding thereof. Board examined the individual & referred to Dermatology (OPD) at GIMS G Noida, Case seen by Dr. Pihu Sethi, (Asst. Prof) as per opinion individual diagnosed (Genital Vitiligo) (Medical guideline revised in 2015 (CAP F) page no 07, para 06, subpara -19. It is clean cut mention having above mention individual declared (UNFIT). Board also agree with Splst. Opinion & individual declared (UNFIT) to above reason.

3) Final Opinion

a) UNFIT

b) UNFIT on account of Hypopigmentation on prepuce of penis."

6. The learned counsel for the petitioner submits that, as would be evident from the Impugned RME Report itself, the petitioner had been referred to a Specialist dermatologist, who, *vide* Certificate dated 13.12.2024, had opined that the condition of the petitioner is '*asymptomatic*', and '*should not affect his physical and personal activities*'. The learned counsel for the petitioner submits that in spite



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of this opinion, the RME merely relying upon Clause 6(19) of the Uniform Guidelines for Medical Examination Test (MET) for recruitment in CAPFs, NSG & AR dated 20.05.2015 (in short, 'Medical Guidelines') has declared the petitioner '*Unfit*' for appointment. He submits that the RME failed to consider that in terms of Clause 6(19) of the Medical Guidelines, it is only the "Chronic Skin Disease" which can be a ground for rejection of the Candidature. He further submits that if the condition suffered by the petitioner does not have any effect on the performance of service and is asymptomatic, the same cannot be a ground for rejection. He places reliance on the Order dated 18.07.2017, passed by this Court in Review Petition No. 569/2012 in W.P.(C) 3391/2012 titled ***Durga Singh vs. Union of India & Ors.***

7. He submits that the petitioner is presently working as Constable (GD) with the respondents and is posted as Special Task Force ('STF') Commando pursuant to passing his STF Commando Course for the same. It is therefore, even otherwise evident that the petitioner is able to perform his duties notwithstanding his medical condition.

8. Issue notice.

9. Notice is accepted by Ms. Richa Dhawan, the learned counsel for the respondents.

10. She submits that the DME and RME have considered the condition of the petitioner. The condition of the petitioner is auto immune condition and, therefore, the petitioner has been rightly declared '*Unfit*' for appointment. She submits that the reports of the DME and the RME cannot be interfered by this Court.



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11. We have considered the submissions made by the learned counsels for the parties.

12. In **Durga Singh** (supra), this Court, in a similar case, has held as under:-

9. Having considered the contentions raised we find that the order dated 29th May, 2012 does require review for it is not the case of the respondents that Linecur stable vitiligo was classified a chronic skin disease and, therefore, the petitioner was unfit. Whether or not the said medical condition could be classified and treated as a chronic disease and, therefore, the petitioner was unfit would have to be decided by the medical officer or the Review Medical Board. It will be impossible for the Court to opine and decide, whether the said medical condition would be a disqualification. Pertinently, the medical certificate relied by the petitioner dated 1st December, 2011 states that the petitioner was medically fit for the said post. It specifically records and holds that the finding that petitioner was suffering from leucoderma was an error of judgment. Moreover, the clause relating to medical review states that there should be a possibility of error of judgment. The word 'possibility' cannot be ignored and is of significance. The final finding on fitness or unfitness is to be given by the Review Medical Board.

10. Possibly, the petitioner at that time of hearing was not prepared to argue and make submission whether the medical condition Linecur stable vitiligo is a chronic skin disease or not, as the said aspect had not been examined by the respondents i.e. the medical officer or the Review Medical Board.

11. In view of the aforesaid, we feel that there is an apparent error in the order dated 29th May, 2012 which justifies review as there is no opinion or formation of belief that the medical condition " Linecur stable vitiligo " would fall in the category of 'chronic skin disease'. Till the said finding or opinion is given by the medical officer or the Review Medical Board of the respondents, the question of fitness cannot be decided.



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The petitioner's medical fitness was required to be considered by the Review Medical Board."

13. As is evident from the above, before declaring the petitioner 'Unfit', the RME had referred the petitioner to a Specialist Dermatologist, who, *vide* his Report dated 13.12.2024, had *inter alia* opined that the condition suffered by the petitioner does not affect his physical and personal activities. The petitioner is also working as an STF commando at present. The RME does not appear to have considered these factors. It also has not considered whether the condition of the petitioner can be described as a "Chronic Skin Disease".

14. In view of the above, we direct that the petitioner be re-examined by a freshly constituted RME, which must not contain the members who were part of the earlier DME and/or RME, and which must also include a Specialist-Dermatologist, especially to consider if the condition of the petitioner can be described as a "Chronic Skin Disease" or would affect the performance of service by him.

15. This exercise must be completed by the respondents within a period of three weeks from today. The petitioner shall be given at least three days advance notice for appearing before the Medical Board so constituted by the respondents pursuant to the present Order.

16. In case, the petitioner is declared fit for appointment, the selection process of the petitioner shall be continued accordingly.

17. With the above direction, the petition, along with pending application, is disposed of.



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18. *Dasti.*

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 15, 2025
SU/SK/IK

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed By: NEELAM
Signing Date: 17.01.2025
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