



2025:DHC:660-DB



\$~85

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

Date of Decision: 03.02.2025

+ W.P.(C) 1278/2025

RAJNISH

.....Petitioner

Through: Mr. Pankaj Mehta, Ms. Shweta
Soni and Ms. Akansha Singh,
Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Ajit Kumar Pathak, SPC
with Mr. Rishav Dubey, Mr.
Alok Vajpayee and Ms. Akriti
Pathak, Advs. for R-1/UOI.
Mr. Ravinder Agarwal, Adv.
for R-2/UPSC.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

NAVIN CHAWLA, J (ORAL)

CM APPL. 6319/2025

1. Allowed, subject to all just exceptions.

W.P.(C) 1278/2025, CM APPL. 6320/2025

2. This petition has been filed by the petitioner, challenging the opinion of the Review Medical Examination ("RME") report dated 09.12.2024, which declared the petitioner medically 'unfit' for



2025:DHC:660-DB



appointment to the post of Assistant Commandant (Group A) in the Central Armed Police Forces (“CAPFs”) pursuant to the CAPFs (Assistant Commandants) Examination, 2024. The Medical Board has declared the petitioner ‘unfit’ for appointment due to a “*Convergent Squint*” in the left eye.

3. The learned counsel for the petitioner submits that post his rejection, the petitioner got himself examined at the Guru Nanak Eye Centre, New Delhi, and also at the Base Hospital, Delhi Cantt. While the Guru Nanak Eye Centre has opined that the Squint of the petitioner is negligible, the Base Hospital, has been opined that the petitioner is in fact suffering from “*Pseudostrabismus*”, which is only a false Squint and arises because of the facial expression and features rather than the actual Squint. He submits that the Medical Board, before declaring the petitioner ‘unfit’ for appointment had not conducted the required test as prescribed in Clause 7(d) of the Guidelines for the Review Medical Examination in the CAPFs and Assam Rifles.

4. On the other hand, the learned counsel for the respondents, who appears on advance notice, submits that the petitioner was thoroughly examined, and the Review Medical Board concurred with the examination report of the Detailed Medical Board that the petitioner is suffering from a Squint in his left eye. He submits that these reports cannot be brushed aside only because of other reports received by the petitioner.

5. We have considered the submissions made by the learned counsels for the parties. The impugned RME, which has declared the



petitioner ‘unfit’ for appointment, also included an Assistant Professor (Ophthalmology) from the Government Institute of Medical Sciences. The petitioner has got himself examined at the Guru Nanak Eye Centre, which has also declared the petitioner to be suffering from a Squint. There are, therefore, concurrent opinions of the Detailed Medical Board, the Review Medical Board, and the Guru Nanak Eye Centre. In our opinion, the mere fact that the Base Hospital opined that the petitioner in fact suffers from “*Pseudostrabismus*”, is not sufficient to disregard the opinions of these Medical Boards.

6. In *Staff Selection Commission & Ors. v. Aman Singh*, 2024:DHC:8441-DB, this Court, on a detailed examination of the precedents on the issue, laid down the circumstances in which the Court may or may not exercise its power of judicial review. These are reproduced as under:-

“10.38 In our considered opinion, the following principles would apply:

(i) The principles that apply in the case of recruitment to disciplined Forces, involved with safety and security, internal and external, such as the Armed and Paramilitary Forces, or the Police, are distinct and different from those which apply to normal civilian recruitment. The standards of fitness, and the rigour of the examination to be conducted, are undoubtedly higher and stricter.

(ii) There is no absolute proscription against judicial review of, or of judicial interference with, decisions of Medical Boards or Review Medical Boards. In appropriate cases, the Court can interfere.

(iii) The general principle is, however, undoubtedly one of circumspection. The Court



is to remain mindful of the fact that it is not peopled either with persons having intricate medical knowledge, or were aware of the needs of the Force to which the concerned candidate seeks entry. There is an irrebuttable presumption that judges are not medical men or persons conversant with the intricacies of medicine, therapeutics or medical conditions. They must, therefore, defer to the decisions of the authorities in that regard, specifically of the Medical Boards which may have assessed the candidate. The function of the Court can only, therefore, be to examine whether the manner in which the candidate was assessed by the Medical Boards, and the conclusion which the Medical Boards have arrived, inspires confidence, or transgresses any established norm of law, procedure or fair play. If it does not, the Court cannot itself examine the material on record to come to a conclusion as to whether the candidate does, or does not, suffer from the concerned ailment, as that would amount to sitting in appeal over the decision of the Medical Boards, which is not permissible in law.

(iv) The situations in which a Court can legitimately interfere with the final outcome of the examination of the candidate by the Medical Board or the Review Medical Board are limited, but well-defined. Some of these may be enumerated as under:

(a) A breach of the prescribed procedure that is required to be followed during examination constitutes a legitimate ground for interference. If the examination of the candidate has not taken place in the manner in which the applicable Guidelines or prescribed procedure requires it to be undertaken, the examination, and its results, would ipso facto stand vitiated.



(b) If there is a notable discrepancy between the findings of the DME and the RME, or the Appellate Medical Board, interference may be justified. In this, the Court has to be conscious of what constitutes a “discrepancy”. A situation in which, for example, the DME finds the candidate to be suffering from three medical conditions, whereas the RME, or the Appellate Medical Board, finds the candidate to be suffering only from one of the said three conditions, would not constitute a discrepancy, so long as the candidate is disqualified because of the presence of the condition concurrently found by the DME and the RME or the Appellate Medical Board. This is because, insofar as the existence of the said condition is concerned, there is concurrence and uniformity of opinion between the DME and the RME, or the Appellate Medical Board. In such a circumstance, the Court would ordinarily accept that the candidate suffered from the said condition. Thereafter, as the issue of whether the said condition is sufficient to justify exclusion of the candidate from the Force is not an aspect which would concern the Court, the candidate's petition would have to be rejected.

(c) If the condition is one which requires a specialist opinion, and there is no specialist on the Boards which have examined the candidate, a case for interference is made out. In this, however, the Court must be satisfied that the condition is one which requires examination by a specialist. One may differentiate, for example, the existence of a haemorrhoid or a skin lesion which is apparent to any doctor who sees the candidate, with an internal orthopaedic deformity, which may require



radiographic examination and analysis, or an ophthalmological impairment. Where the existence of a medical condition which ordinarily would require a specialist for assessment is certified only by Medical Boards which do not include any such specialist, the Court would be justified in directing a fresh examination of the candidate by a specialist, or a Board which includes a specialist. This would be all the more so if the candidate has himself contacted a specialist who has opined in his favour.

(d) Where the Medical Board, be it the DME or the RME or the Appellate Medical Board, itself refers the candidate to a specialist or to another hospital or doctor for opinion, even if the said opinion is not binding, the Medical Board is to provide reasons for disregarding the opinion and holding contrary to it. If, therefore, on the aspect of whether the candidate does, or does not, suffer from a particular ailment, the respondents themselves refer the candidate to another doctor or hospital, and the opinion of the said doctor or hospital is in the candidate's favour, then, if the Medical Board, without providing any reasons for not accepting the verdict of the said doctor or hospital, nonetheless disqualifies the candidate, a case for interference is made out.

(e) Similarly, if the Medical Board requisitions specialist investigations such as radiographic or ultrasonological tests, the results of the said tests cannot be ignored by the Medical Board. If it does so, a case for interference is made out.



(f) If there are applicable Guidelines, Rules or Regulations governing the manner in which Medical Examination of the candidate is required to be conducted, then, if the DME or the RME breaches the stipulated protocol, a clear case for interference is made out.

*(v) Opinions of private, or even government, hospitals, obtained by the concerned candidate, cannot constitute a legitimate basis for referring the case for re-examination. At the same time, if the condition is such as require a specialist's view, and the Medical Board and Review Medical Board do not include such specialists, then the Court may be justified in directing the candidate to be re-examined by a specialist or by a Medical Board which includes a specialist. In passing such a direction, the Court may legitimately place reliance on the opinion of such a specialist, even if privately obtained by the candidate. **It is reiterated, however, that, if the Medical Board or the Review Medical Board consists of doctors who are sufficiently equipped and qualified to pronounce on the candidate's condition, then an outside medical opinion obtained by the candidate of his own volition, even if favourable to him and contrary to the findings of the DME or the RME, would not justify referring the candidate for a fresh medical examination.***

(vi) The aspect of "curability" assumes significance in many cases. Certain medical conditions may be curable. The Court has to be cautious in dealing with such cases. If the condition is itself specified, in the applicable Rules or Guidelines, as one which, by its very existence, renders the candidate unfit, the Court may discredit the aspect of curability. If there is no such stipulation, and the condition is curable with treatment, then, depending on the facts of the case, the Court may opine that the Review Medical Board ought to have given



the candidate a chance to have his condition treated and cured. That cannot, however, be undertaken by the Court of its own volition, as a Court cannot hazard a medical opinion regarding curability, or the advisability of allowing the candidate a chance to cure the ailment. Such a decision can be taken only if there is authoritative medical opinion, from a source to which the respondents themselves have sought opinion or referred the candidate, that the condition is curable with treatment. In such a case, if there is no binding time frame within which the Review Medical Board is to pronounce its decision on the candidate's fitness, the Court may, in a given case, direct a fresh examination of the candidate after she, or he, has been afforded an opportunity to remedy her, or his, condition. It has to be remembered that the provision for a Review Medical Board is not envisaged as a chance for unfit candidates to make themselves fit, but only to verify the correctness of the decision of the initial Medical Board which assessed the candidate.

(vii) The extent of judicial review has, at all times, to be restricted to the medical examination of the candidate concerned. The Court is completely proscribed even from observing, much less opining, that the medical disability from which the candidate may be suffering is not such as would interfere with the discharge, by her, or him, of her, or his, duties as a member of the concerned Force. The suitability of the candidates to function as a member of the Force, given the medical condition from which the candidate suffers, has to be entirely left to the members of the Force to assess the candidate, as they alone are aware of the nature of the work that the candidate, if appointed, would have to undertake, and the capacity of the candidates to undertake the said work. In other words, once the Court finds that the decision that the candidate concerned suffers from a particular



ailment does not merit judicial interference, the matter must rest there. The Court cannot proceed one step further and examine whether the ailment is such as would render the candidate unfit for appointment as a member of the concerned Force.”

(Emphasis supplied)

7. This Court has therefore, held that if the DME or the RME consists of a specialist in the required field for which the candidate has been declared unfit for appointment, merely because the candidate has obtained a contrary opinion from a private or a government hospital, would not warrant a direction for the candidate to be subjected to another medical examination. In such circumstances, the opinion of the DME/RME cannot be interfered with.

8. As far as the submission of the learned counsel for the petitioner that the RME did not conduct the requisite tests, we may quote Clause 7(d) of the Guidelines relied upon by the learned counsel for the petitioner, as under:-

“7. Following examples are cited for the guidance of Review Medical Board:-

xxx xxx xxx

d) To rule out any eye surgery like Lasik/ LASEK / PRK/ PK / Glaucome/ Squint/Pterygium Surgery etc. Investigations may be carried out accordingly, viz. slit lamp examination /ophthalmoscopy / Corneal Topography/ OCT/ HVF/ Tonometry/VEP/ ERG / Synoptophore etc. should be carried out.”

9. A reading of the above would show that the tests prescribed therein are to be conducted to rule out any eye surgery. In the present case, the opinion of the Medical Board was that the petitioner suffers from a Squint. There was, therefore, no occasion to rule out any



2025:DHC:660-DB



surgery having been undergone by the petitioner and consequently, for conducting further tests on the petitioner.

10. In any event, because of the above consistent views and the Medical Board consisting of an Ophthalmologist, which has ruled the petitioner 'unfit' for appointment, we do not see any reason to interfere with the said opinion.

11. Accordingly, the petition along with the pending application stands dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 3, 2025/ss/kp/DG

Click here to check corrigendum, if any