



2025:DHC:2031-DB



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

Date of decision: 26.03.2025

+ **W.P.(C) 3770/2025 & CM APPL. 17530-33/2025
COMMISSIONER OF POLICE AND ORS**

.....Petitioners

Through: Mr.Ashish K. Dixit, CGSC with
Mr.Shivam Tiwari, Ms.Urmila
Sharma, Ms.Deepika Kalra &
Ms.Venni Kakkar, Advs.

versus

NIKHIN

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioners, challenging the Order dated 27.08.2024, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in Original Application 1570/2024 (O.A.) titled ***Nikhil v. Staff Selection Commission & Ors.***, whereby the learned Tribunal allowed the said O.A. filed by the respondent herein, with the following directions:

"8. In our considered view, the ratio of the aforesaid Order applies to the facts of the present case as well. Accordingly, the OA is also disposed of with a direction to the competent authority amongst the respondents to conduct a fresh medical examination of the



applicant by way of constituting an appropriate medical board in any government hospital except the hospital which has already conducted the initial and the review medical examination. Appropriate orders with respect to the candidature of the applicant on the basis of the outcome of such an independent/fresh medical examination be passed thereafter under intimation to the applicant.

9. The aforesaid directions shall be complied with within a period of twelve weeks from the date of receipt of a certified copy of this order. In the event the applicant is being declared medically fit, subject to his meeting other criteria, he shall be given appointment forthwith. The applicant, in such an eventuality, shall also be entitled to grant of all consequential benefits, however, strictly on notional basis. No costs."

2. The respondent had appeared for selection to the post of Constable (Executive) Male pursuant to the advertisement issued on 01.09.2023. He was declared 'unfit' for appointment in the Medical Examination conducted on 21.01.2024, with the following remarks:-

'Gynaecomastia (Left)'

3. The respondent applied for a Review Medical Examination.
4. The Review Medical Examination Board, *vide* its report dated 30.01.2024, although it found the respondent 'fit' as far as 'Gynaecomastia (Left)' is concerned, declared him 'unfit' on the ground of *'squint from optical side d/t squint and torticollis present chin + face turn to RT side'*.
5. Aggrieved thereby, the respondent filed the above O.A., which, as noted hereinabove, has been allowed by the learned Tribunal with the above-quoted directions.



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6. The learned counsel for the petitioners submits that the presence of a squint is an absolute ground for the rejection of the candidature of the respondent. He further submits that the report of the Review Medical Examination Board cannot be lightly interfered with, as has been done by the learned Tribunal.

7. We have considered the submissions made by the learned counsel for the petitioners, however, we find no force in the same.

8. As would be evident from the above, the initial rejection of the candidature of the respondent was on the grounds of the presence of Gynaecomastia (Left). It is the Review Medical Examination Board, which, though cleared the respondent with respect to the presence of the above condition, however, still declared the respondent 'unfit' on account of squint, as also been issues with his facial turn, as has been reproduced hereinabove. The respondent did not get any chance to challenge these findings.

9. In ***Staff Selection Commission & Others v. Aman Singh***, 2024 SCC OnLine Del 7600, a coordinate bench of this Court, after a detailed examination of the issue of challenge to the Medical Examination, has held as under:

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

xxx

(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:

xxx

(b) If there is a notable discrepancy between the findings of the DME and the RME, or the



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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.”

10. Applying the above principle to the facts of the present petition, we do not find any error being committed by the learned Tribunal in directing a re-examination of the respondent.

11. Accordingly, the petition along with the pending applications is disposed of.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MARCH 26, 2025/rv/DG

Click here to check corrigendum, if any