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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 28.01.2025*****+ W.P.(C) 6067/2023, CM APPL. 23750/2023, CM APPL. 49600/2023****CT/GD MANASH RANJAN PANIPetitioner****Through: Ms. Ankita Patnaik, Adv.****versus****UNION OF INDIA AND ORSRespondents****Through: Mr. Ashish Botro, SPC with
Mr. Rahul Kumar, Adv.****Mr. B.B. Sharma, AC and Mr.
Ajay Kumar, AC, Mr. Prahlad
Devenda, SI and Mr. Amit
Kumar, SI, CISF****CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed by the petitioner, who is serving as a Constable (General Duty) in the Central Industrial Security Force ('CISF'), praying for the following reliefs:-

“(A) Issue of a writ of mandamus directing the Respondents to appoint (by way of LDCE-01 9) to the post of Assistant Sub-Inspector(Exe) and grant him all consequential benefits except back wages;

(B) Issue of Writ of Certiorari quashing the findings of Medical Board dated 26.04.2022 and Medical Review Board dated 13.06.2022 whereby the Respondents have declared the



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Petitioner as unfit by illegally applying the medical standards as applicable to fresh recruits.

(C) Issue of Writ of Certiorari quashing the Clause iii (b) in Column 11 of the Central Industrial Security Force, Security Wing, Assistant Sub-Inspector (Executive) Recruitment Rules, 2013."

2. The facts necessary for the disposal of the present writ petition are that the petitioner was enrolled in the CISF as a Constable (General Duty) on 26.10.2013, and has been working in the aforementioned post since his enrolment. It is the case of the petitioner that he has undergone multiple Annual Medical Examinations conducted by the respondents, in which he has consistently been adjudged in the SHAPE-I Medical Category.

3. The petitioner had applied for the post of Assistant Sub-Inspector (ASI) Executive through the Limited Departmental Competitive Examination-2019 (LDCE).

4. Following the written examination and the Physical Efficiency Test, the petitioner was called for a medical examination on 26.04.2022. However, the petitioner was declared medically 'unfit' due to 'Ear not visible due to presence of wax and 'Right Hydrocele'. The petitioner was, accordingly, allowed to apply for a Review Medical Board.

5. The petitioner addressed these issues, receiving a fitness certificate dated 30.04.2022 for ear wax, and another dated 02.05.2022 stating 'No Hydrocele' but 'Minor Hernia', from the Capital Hospital, Bhubaneswar.



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6. On 13.06.2022, the Review Medical Board acknowledged the absence of '*Wax in both ears*' and '*Right Hydrocele*', but declared the Petitioner medically 'unfit' due to the presence of '*Right Inguinal Hernia*', relying on Revised Uniform Guidelines for recruitment medical examination for recruitment of GOs and NGOs in the CAPFs and AR dated 20.05.2015.

7. The learned counsel for the petitioner submits that the petitioner underwent surgery to rectify the hernia and submitted his grievances regarding the same, but no response was received.

8. Aggrieved of the same, the petitioner has preferred the present petition.

9. The learned counsel for the petitioner submits that as per the CISF Recruitment Rules, 2010, the only physical standard required for promotion to the rank of ASI is being in SHAPE-I Medical Category, which the petitioner has consistently met since his enrolment in 2013 and, therefore, he cannot be declared unfit for appointment.

10. On the other hand, the learned counsel for the respondents submits that as per the PET/Medical Examination of qualified candidates in connection with recruitment to the posts of ASI (Executive) through the LDCE 2019, and the Revised Uniform Guidelines referred herein above, if a candidate is found to be suffering from '*Right Inguinal Hernia*', even if operated upon, he is to be declared as 'unfit' for appointment.

11. He submits that merely because the petitioner was declared to be in SHAPE-I Medical Category in his Annual Medical Examination,



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the same would not be a ground for challenging the report of his medical examination conducted for the LDCE. He places reliance on the Judgment of the Supreme Court in ***Pavnesk Kumar v. Union of India and Other***, 2023 SCC OnLine SC 1583.

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

13. The issue whether a candidate who is otherwise declared to be in SHAPE-I Medical Category, can still be rejected for appointment through the LDCE if found ‘unfit’ on the medical grounds, has been considered by the Full Bench of this Court in the present writ petition, observing as under:-

“3. The Supreme Court in the above judgment, has held that even though the candidate in the routine annual medical check-up had been declared to be in SHAPE-I category, the same was merely the eligibility condition for applying to the post of Sub-Inspector (GD) through the LDCE, and was not a part of the examination process for selection to the post of Sub-Inspector (GD) through the LDCE. In case the candidate does not clear the medical examination conducted as part of the recruitment process under the LDCE, the candidate, in such a case, therefore would be considered as not having cleared Stage-V of the LDCE selection process. Further, the plea of the candidate that the LDCE is merely a fast-track promotion and not a case of fresh appointment, was also rejected by the Supreme Court, by holding that the LDCE is not a normal promotion rather, it is selection for a higher post from amongst the eligible candidates working on the lower post. It was held that the selection had to be conducted in terms of the advertisement and the scheme of



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the selection contained therein. The condition of clearing the medical examination was, therefore, an eligibility condition that had to be met in addition to the candidate being in medical category SHAPE-I.

*4. In view of the above, the question of law that has been referred to this Full Bench, is covered by the judgment of the Supreme Court in **Pavnesk Kumar** (supra)."*

14. In **Pavnesk Kumar** (supra), on which reliance has been placed by the Full Bench, the Supreme Court rejected a plea similar to the one taken by the learned counsel for the petitioner, on the effect of the candidate being in SHAPE-I but being found unfit in the medical examination for LDCE, observing as under:

"13. It was next contended that the appointment through LDCE is like fast-track promotion and is not a fresh appointment. Therefore, recruitment rules and guidelines applicable to the normal mode of promotion would have been applied and not any different medical standards.

14. No doubt appointment to a higher post of an incumbent working on lower post is in the form of an accelerated promotion but it cannot be equated with normal mode of promotion. This is evident from the advertisement itself which in unequivocal terms states that applications are invited for selection to the post of Sub-Inspector (GD) in BSF through LDCE. The very fact that the applications were invited for selection to the post of Sub-Inspector (GD)



connotes that it was not a normal promotion rather selection to the higher post from amongst the eligible candidates working on the lower post. Thus, the submission that the normal rules of promotion or medical examination ought to have been applied, is not acceptable.

15. This apart, selection was to be conducted in terms of the advertisement. The scheme of the selection contained in the advertisement categorically provided clearing of the examination in all the five stages which included detailed medical examination. This was independent and in addition of the eligibility condition that a candidate must possess the medical category SHAPE-I while working on the lower post.

16. Additionally, a distinction has to be drawn between a normal promotion and promotion by selection through LDCE. Promotion by selection through LDCE vis-à-vis competitive examination is a facility or a chance given for out of their promotion without waiting for the normal course of promotion. It in effect is selection through competitive examination within the limited category of candidates and cannot be equated with normal promotion. This being the position, the argument that regular promotion criteria had to be applied with regard to medical fitness even in the matter of selection through LDCE is not acceptable.



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17. In view of the above facts and circumstances, we find no substance in the appeal. There is no review of the medical of the appellant and the declaration that he is “medically unfit”, is not contrary to any earlier reports as he was never declared to be medically fit in the process of examination for selection to Sub-Inspector (GD) through LDCE.”

15. In view of the above, the submission of the learned counsel for the petitioner that the petitioner was declared to be in SHAPE-I Medical Category while working as a Constable (GD), can be of no relevance. The fact remains that the petitioner has been declared ‘unfit’ for appointment in the medical examination that was conducted for the LDCE examination in terms of the Scheme of the examination announced by the respondent. Stage V of the scheme required the candidate to be declared ‘fit’ in the medical examination, which the petitioner could not meet.

16. As far as the submission of the learned counsel for the petitioner that the petitioner has undergone an operation on 04.11.2022 and has been declared ‘fit’ for duty, we do not find merit in the same. The petitioner was found suffering from hernia at the time of the Review Medical Examination. This cannot be disputed by the petitioner as the petitioner himself asserts that he later underwent a surgery for the same. Clause XIII(3)(d) of the Revised Medical Guidelines also state that an operated case of Hernia will not be accepted for 6 months of the surgery.



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17. Therefore, the petitioner was rightly declared ‘unfit’ for appointment by the Review Medical Board, and later surgery for the medical condition, would not give a ground to the petitioner to challenge the findings of the Review Medical Board.

18. In view of the above, we find no merit in the present petition. The same is, accordingly, dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 28, 2025
SU/FRK/DG

Click here to check corrigendum, if any