



2025:DHC:2654-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 16.04.2025***

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W.P.(C) 4715/2025

UNION OF INDIA & ORS.

.....Petitioners

Through:

Mr.Rohan Jaitley CGSC,
Mr.Dev Pratap Shahi,
Mr.Varun Pratap Singh,
Mr.Yogya Bhatia, Advs.

versus

ASHISH DHAKER

.....Respondent

Through: Mr.Rajesh Chauhan, Adv.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE RENU BHATNAGAR****NAVIN CHAWLA, J. (ORAL)****CM APPL. 21696/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

W.P.(C) 4715/2025 & CM APPL. 21695/2025

2. This petition has been filed, challenging the Order dated 09.08.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'learned Tribunal') in Original Application (OA) No.583/2024 titled ***Ashish Dhaker v. Union of India and Ors.***

3. The learned Tribunal by the Impugned Order has directed the petitioners to have a re-medical examination of the respondent carried out by any Government Hospital other than the one where the Detailed



Medical Examination (in short, 'DME') and the Review Medical Examination (in short, 'RME') of the respondent was earlier conducted. It has further directed that the Medical Board should consist of a specialist in the subject.

4. Briefly stating, the respondent had applied for the post of Constable (Male) pursuant to the Advertisement dated 01.09.2023 issued by the petitioners for the recruitment to the said post.

5. Having cleared the initial stages of selection, the respondent appeared before the DME. Based on an X-Ray Report dated 18.01.2024 from IPSC, Pain and Spine Hospital, the DME declared the respondent 'unfit' for appointment finding that the respondent suffered from "*coin lesion is seen in right upper zone and small lesion is seen right middle zone*".

6. Aggrieved of the above report, the respondent applied for RME. In the RME, the respondent was subjected to CECT Chest Investigation by Doctors Diagnostics Centre, which *inter alia* reported as under:

"Findings are likely suggestive of cavitatory pneumonia involving right upper lobe."

7. Based on this report, the RME also declared the respondent as 'unfit' for appointment with remarks "*CECT chest confirmed active Pneumonia involving Right upper lobe.*"

8. Aggrieved of the same, the respondent approached the learned Tribunal in form of the above OA, which was allowed by the learned Tribunal by its Order dated 09.08.2024.



9. The petitioners have challenged the Impugned Order of the learned Tribunal stating that the findings of the DME and RME were based on a clinical assessment of the respondent by way of an X-Ray and later a CECT scan, which both found the presence of Pneumonia in the lungs of the respondent. The learned counsel for the petitioners submits that these reports could not have been interfered with by the learned Tribunal in a casual manner based on the reports of a private hospital that have been produced by the respondent.

10. On the other hand, the learned counsel for the respondent, who appears on advance notice of this petition, submits that the Medical Boards did not consist of a Pulmonary Specialist who could have opined if the condition suffered by the respondent would in any manner hamper the performance of duties by the respondent. In support of this plea, he placed reliance on the Judgment of this Court in *Staff Selection Commission and Ors. v. Aman Singh*, 2024 SCC OnLine Del 7600. He further submits that, in fact, in a medical examination that the respondent got conducted subsequently from Medanta Hospital, Indore, the finding given is that “*both lung fields are clear*”.

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

12. At the outset, we would reiterate the general principles that are applicable while considering a challenge to the Reports of the medical experts in a recruitment process. This Court in *Aman Singh* (supra) has laid down these principles as under:



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

xxx

(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.”

(emphasis supplied)

13. As is evident from the above, one of the principles laid down by this Court is that for certain conditions in case the DME and RME do not consist of a subject expert, the candidate should be referred to the expert in the field for obtaining an opinion on the medical fitness of the candidate.

14. In the present case, admittedly, the DME or the RME did not consist of a Pulmonary Specialist. We are not the experts who can opine on whether the condition suffered by the respondent would in



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any manner affect the performance of his duties, or whether the same is permanent or not. It is for a specialist to opine on the same.

15. Accordingly, we find no infirmity in the Impugned Order passed by the learned Tribunal.

16. The petition alongwith the pending applications is accordingly dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 16, 2025/IK

Click here to check corrigendum, if any