



2025:DHC:2742-DB



\$~117

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 16.04.2025***+ **W.P.(C) 4804/2025****STAFF SELECTION COMMISSION & ANRPetitioners****Through: Mr.Premtosh K Mishra
(CGSC), Mr. Manish Vashist,
Ms. Sanya Kalsi, Adv.**

versus

PREM PRAKASH JOSHI**.....Respondent****Through: Nemo.****CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE RENU BHATNAGAR****NAVIN CHAWLA, J. (ORAL)****CM APPL. 22079/2025(exemption)**

1. Allowed, subject to all just exceptions.

W.P.(C) 4804/2025 & CM APPL. 22078/2025

2. This petition has been filed by the petitioner, challenging the Order dated 27.08.2024 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (in short, 'Tribunal') in Original Application no.3318/2024 (O.A.) tilted ***Prem Prakash Joshi v. Staff Selection Commission & Anr.***, allowing the O.A. filed by the respondent herein with the following directions:

"7. 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



2025:DHC:2742-DB



competent authority amongst the respondent 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.

8. 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."

3. Briefly stated, the facts giving rise to the present petition are that the respondent herein had applied for the post of Constable (Executive) Male in the Delhi Police Examination-2023 pursuant to notification dated 01.09.2023. Thereafter, the respondent appeared for the written examination held on 14.11.2023 and was shortlisted for the Physical Endurance and Measurement Test (PE&MT) to be held from 13.01.2024 to 20.01.2024. The Detailed Medical Examination (DME) of the respondent was conducted on 18.01.2024, wherein he was declared 'unfit' on account of "Scoliosis, Varicose vein, and Congenital anomaly Accessory Nipples left side". Thereafter, the Review Medical Examination (RME) also declared the respondent medically



‘unfit’ on account of “*Scoliosis and L Accessory Nipples*”, vide its report dated 24.01.2024. Therefore, the respondent was declared ‘unfit’ for appointment to the said post.

4. The respondent preferred the said O.A., *inter alia*, contending that he got himself examined by a Government Hospital, and the Doctors at the said hospital cleared him of the said medical condition.
5. The learned Tribunal, vide the Impugned Order, directed the petitioners herein to conduct a fresh medical examination of the respondent.
6. Aggrieved by the same, the petitioners have filed the present petition.
7. Though the period of limitation does not apply to a petition filed under Article 226 of the Constitution of India, however, the Court in cases where the delay and laches is attributed to the petitioner(s), may refuse to exercise its jurisdiction in favour of the petitioner(s). The present is one such a case. There is absolutely no explanation given by the petitioners for the delay in approaching this Court by way of the present petition, challenging the Impugned Order.
8. Apart from the fact that the petition is barred by delay and laches, we otherwise also find no merit being made out by the petitioners for interfering with the Impugned Order, especially, taking into account that the report of the Specialist, to whom the respondent had been referred prior to his rejection by the RME, had opined



that the conditions for which the respondent has been declared ‘unfit’ for the appointment by the DME did not exist. In spite of such opinion, the RME declared the respondent ‘unfit’.

9. In ***Staff Selection Commission & Ors v. Aman Singh***, 2024 SCC Online Delhi 7600, this Court, while laying down the general principles applicable to a challenge to the medical opinions in a selection process, *inter alia*, held 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.”

10. Applying the principle laid down by this Court in ***Aman Singh***



2025:DHC:2742-DB



(supra), therefore, we find no infirmity in the impugned order passed by the learned Tribunal.

11. The petition along with the pending application is, accordingly, dismissed.
12. There shall be no order as to costs.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 16, 2025
RN/VS

Click here to check corrigendum, if any