



2025:DHC:2630-DB



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

+ **W.P.(C) 4738/2025**

STAFF SELECTION COMMISSION (HDQRS) & ANR.

.....Petitioners

Through: Mr. Rajesh Gogna, CGSC with
Mr. Nishant Sharma, Advocate.

versus

JYOTI GUPTA

.....Respondent

Through: Ms. Esha Mazumdar and Ms.
Muskan Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 21760/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 4738/2025 & CM APPL. 21761/2025

2. This petition has been filed by the petitioner, challenging the Order dated 03.09.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in Original Application ('OA') No. 3426/2024, titled ***Jyoti Gupta v. Staff Selection Commission (Hdqrs.) & Anr.***, allowing the said OA filed by the respondent herein with the following direction:

"4. In view of the above submissions, the OA is allowed and the respondents are directed to allow the applicant to appear for the re-review medical examination to be conducted by them as per the directions issued by this Tribunal in OA 1857/2024 and also in the present case."



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3. The learned counsel for the petitioners submits that the opinion of the Detailed Medical Board and the Review Medical Board have been interfered with by the learned Tribunal merely on the basis that other Government institutions have given divergent opinions. He submits that the same cannot be a ground for disregarding the consistent opinion of the Detailed Medical Board and the Review Medical Board.

4. On the other hand, the learned counsel for the respondent, who appears on an advance notice, submits that apart from the fact that the present petition is highly belated, in any case, the Detailed Medical Examination ('DME') and the Review Medical Examination ('RME') had both found the respondent to be '*temporarily unfit*' for appointment. She submits that the petitioner, without giving an adequate opportunity to the respondent to cure her condition, conducted the RME and again declared the respondent unfit for appointment due to her temporary condition.

5. She further submits that later on, when the respondent got herself examined at the same hospital where she had earlier been referred to by the RME for a specialist opinion, the specialist in the said hospital gave a clean report to the respondent and declared her fit for recruitment. She submits that, therefore, in the facts of the present case, no interference is called for against the direction issued by the learned Tribunal.

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



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7. At the outset, we would first note that the present petition challenges the Order dated 03.09.2024, whereby the learned Tribunal had directed that the respondent be allowed to appear for the re-Review Medical Examination to be conducted by the petitioners. It is however pertinent to state that the present petition has been filed by the petitioners on or about 11.03.2025, that is, after much delay and without giving any explanation for such delay. The petition, as it relates to a recruitment process is, therefore, highly belated and liable to be dismissed on the ground of delay and laches alone.

8. Be that as it may, we have also considered the claim of the petitioners on merits.

9. At first instance, we agree with the submissions of the learned counsel for the petitioners that the learned Tribunal has, in a cursory manner, set aside the consistent opinions of the DME and the RME based on its earlier decision in OA 1857/2024 titled ***Vatan Singh v. Staff Selection Commission & Ors.*** We do not appreciate the said manner in which the learned Tribunal has allowed the OA without discussing the specific facts of the case. The facts and circumstances of each case have to be seen for the application of a particular judgment and law, and there cannot be a universal formula adopted as fitting into all situations *de hors* the individual facts of a case.

10. We, however, instead of remanding the matter, have proceeded to consider the petition and the case of the respondent on merits.

11. It is admitted that the DME Board, *vide* Report dated 23.01.2024, had declared the respondent unfit for appointment while observing as under:



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*“19.iii) Temp. Unfit on account of – TM
Perforation review ENT”*

12. The respondent thereafter applied for the RME and was referred for a consultation with an ENT specialist on 25.01.2024. On such examination, the specialist at the Lok Nayak Hospital, by a Report dated 27.01.2024, again found the respondent temporarily unfit. Based on this report, the RME declared the respondent unfit for appointment by the Impugned Report dated 28.01.2024.

13. It can be seen from the above that even though the respondent was found to be temporarily unfit, the entire process of medical examination was completed within a period of five days in a hasty manner, though the medical guidelines applicable to the selection process grants one month's time to a candidate to appeal against the initial finding of the Medical Board.

14. In *Staff Selection Commission v. Aman Singh*, 2024 SCC OnLine Del 7600, this Court has also considered the aspect of curability and sufficient time being given to the candidate for the said purpose if the rules so permit. We quote from the said judgment as under:

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

xxx

(c) 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



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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."

15. Applying the above principle to the facts of the present case, we find that the RME was conducted almost immediately after the DME, and had declared the respondent as '*temporarily unfit*' without giving sufficient time to the respondent to recover from her condition. It is also an admitted fact that the same hospital where the respondent had been referred to for a specialist opinion and which declared her as temporarily unfit, has later opined that she is fit and does not suffer



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from the condition for which she had been earlier declared unfit for recruitment.

16. In view of the aforesaid, we do not deem it proper to interfere with the direction issued by the learned Tribunal.

17. The petition along with the pending application is, accordingly, dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 16, 2025

Sc/My/SJ

Click here to check corrigendum, if any