



2025:DHC:2664-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 17.04.2025

+ **W.P.(C) 4840/2025**

STAFF SELECTION COMMISSION (HDQRS) & ANR.

.....Petitioners

Through: Mr. Rajesh Gogna, CGSC with
Ms. Priya Singh and Mr.
Nishant Sharma, Advs.

versus

HEMANT MARAIYA

.....Respondent

Through: Mr. Rajesh Chauhan, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 22172/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 4840/2025 & CM APPL. 22173/2025

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, 'learned Tribunal') in Original Application No. 3420/2024 (hereinafter referred to as, 'OA'), titled ***Hemant Maraiya v. Staff Selection Commission (HdQRS) and Anr.***, allowing the 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-view medical examination to be conducted by them



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as per the directions issued by this Tribunal in
OA 1857/2024 and also in the present case.”

3. The learned counsel for the petitioners submits that the learned Tribunal has failed to appreciate the fact that the Detailed Medical Examination Board and the Review Medical Examination Board had declared the respondent *unfit* for appointment to the post of Constable (Executive) Male, in the Constable (Executive) Male and Female in Delhi Police Examination-2023, on account of him suffering from ‘*phimosis*’. He submits that the respondent later got himself operated for the same, and on the basis thereon, claims medical fitness. He submits that the learned Tribunal has ignored the fact that it is only post the operation that the respondent became fit for the appointment.

4. On the other hand, the learned counsel for the respondent, who appears on an advance notice of this petition, places reliance on the Judgment of this Court in ***Manish Kasana v. Union of India & Ors.*** 2022 SCC OnLine Del 1583, wherein this Court, while taking note of the submissions of the counsel for the petitioner therein that ‘*phimosis*’ is a curable disease and not a ground for declaring a candidate *unfit* for services, referred the candidate therein for a re-medical examination.

5. We also take note of the fact that admittedly the respondent had been medically examined by the Detailed Medical Examination (hereinafter referred to as, ‘DME’) on 20.01.2024. As per the Guidelines, one month’s time ought to be granted to a candidate to request for a Review Medical Examination (hereinafter referred to as, ‘RME’). In the present case the RME, however, was conducted on



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25.01.2024, i.e., within five days from the DME. In ***Staff Selection Commission v. Aman Singh***, 2024 SCC OnLine Del 7600, this Court had considered the aspect of curability and sufficient time being given to the candidate for the said purpose if the rule so permit. We quote from the said Judgment as under:

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

xxx

(vi) 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 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



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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.

xxx ”

6. Applying the above principle to the facts and circumstances of the present case, we do not find any infirmity in the Impugned Order.
7. The petition along with pending application(s) is, accordingly, dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 17, 2025

Sc/sm/ik

Click here to check corrigendum, if any