



2025:DHC:4184-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 21.05.2025

+ **W.P.(C) 5700/2025**

COMMISSIONER OF POLICE AND ANR

.....Petitioners

Through: **Mr. Ashish K. Dixit, CGSC,
Mr. Shivam Tiwari, Avd.**

versus

PUJA JAKHAR

.....Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 26023/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 5700/2025 & CM APPL. 26022/2025

2. This petition has been filed by the petitioners, challenging the Order dated 29.11.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 1154/2024, titled ***Puja Jakhar v. Commissioner of Police & Ors.***, allowing the said OA filed by the respondent herein with the following direction:

"5. 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



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as per the directions issued by this Tribunal in OA 1857/2024 and also in the present case, at any other government hospital other than the hospital where the Detailed Medical Examination and Review Medical Examination of the applicant were conducted.”

3. The respondent had applied for the post of Constable (Executive) Female in the Delhi Police Examination, 2023, pursuant to the Advertisement/Notification issued by the petitioners herein on 01.09.2023. She was, however, declared ‘*unfit*’ for appointment on 22.01.2024, by the Detailed Medical Examination (‘DME’) Board, on the grounds of “*Rt TM perforation, ↓Hearing*” and “*Burn scar on left foot ? contracture*”.

4. As far as the ground of “*Burn scar on left foot ? contracture*” is concerned, the Review Medical Examination (‘RME’) Board in its examination dated 27.01.2024, after obtaining an opinion from a dermatologist, did not find the same to be made out. However, the RME Board, after obtaining an opinion from an ENT, declared the respondent ‘*unfit*’ for appointment on the ground of “*TM Perforation central*”.

5. The learned counsel for the petitioners submits that the opinion of the DME Board and the RME Board have been interfered with by the learned Tribunal merely on the basis that another Government institution which gave a divergent opinion. He submits that the same cannot be a ground for disregarding the opinion of the DME Board and the RME Board, especially when the opinion of a specialist was taken.

6. We have considered the submissions made by the learned



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counsel for the petitioners.

7. This Court in ***Staff Selection Commission (Hdqrs) & Anr. v. Jyoti Gupta***, 2025:DHC:2630-DB, found that the Medical Board had opined that perforation in the ear is only a temporary condition which can be easily cured, and as held as under:

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

8. In the present case, from the medical record placed before us,



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and for lack of expertise on this subject, we cannot state if the condition of '*Rt TM perforation, ↓ Hearing*' suffered by the respondent was only temporary in nature and/or was curable by a minor procedure. We also cannot opine whether the respondent could have been cured of the said condition if she had been given time by the RME for the same.

9. However, applying the above ratio to the present case, we find that the RME has also not considered the above aspects nor has it considered if the respondent can be provided with enough time to cure her condition before declaring her '*unfit*' for appointment. It also appears that the respondent has subsequently gotten operated for the said condition on 03.02.2024 at the Sawai Man Singh Hospital, Jaipur, Rajasthan.

10. Even otherwise, on perusal of the record, multiple other discrepancies have also come to light. It appears that while the DME finds the respondent to be suffering from "*Rt TM perforation, ↓ Hearing*" the RME has opined that the respondent is '*unfit*' on account of "*TM perforation central*" without mentioning the ear in which the said condition is prevalent. Additionally, it appears that the ENT specialist report relied upon in the RME, while stating that a perforation in the right ear was present, had further directed that a pure tone audiometry to be conducted. The said audiometry report goes on to provide a provisional diagnosis that the respondent in fact had "*Bilateral Normal hearing sensitivity*". It appears that the RME report has also not taken this observation into consideration.

11. Given the aforementioned, we do not find any merit in the



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present petition. The petition, along with the pending applications, is accordingly, dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 21, 2025/ik

Click here to check corrigendum, if any