



2025:DHC:241-DB



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

Date of decision: 17.01.2025

+ W.P.(C) 11096/2023, CM APPL. 43086/2023

NEERAJ SHARMA

.....Petitioner

Through: Mr. Ajay Garg and Mr. Uday
Garg, Advs.

versus

STAFF SELECTION COMMISSION AND ORS

.....Respondents

Through: Ms. Radhika Vishwajeet
Dubey, CGSC with Mr.
Jitendra Kumar Tripathi, Adv.
for UOI.
Mrs. Abha Malhotra, CGSC
with Mr. Kapil Dev Yadav,
Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, challenging the report of the Detailed Medical Examination ('DME') dated 27.07.2023 and the report of the Review Medical Examination ('RME') dated 28.07.2023, declaring the petitioner 'Unfit' for recruitment to the post of Constable (GD) in the Central Armed Police Forces (CAPFs), SSF, Rifleman (GD) in Assam Rifles and Sepoy in Narcotics Control Bureau Examination, 2022 conducted by the Staff



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Selection Commission ('SSC').

2. The Impugned DME and the RME Reports have declared the petitioner 'Unfit' for recruitment to the above post on the ground that he was found to be suffering from '*Scoliosis*' and '*Tachycardia*'.

3. The learned counsel for the petitioner, placing reliance on Clause 7(e) of the 'Guidelines for Review Medical Examination (RME) in Central Armed Police Forces & Assam Rifles for GOs and NGOs' (hereinafter referred to as, 'RME Medical Guidelines') submits that if a candidate is to be rejected on the ground of him suffering from '*Tachycardia*', the abovementioned guidelines require that the candidate should be admitted/hospitalized by the Board before giving the final opinion regarding the candidate's fitness or otherwise, as in certain cases the rise in blood pressure may only be transient in nature due to excitement, etc. He submits that in the present case, neither the DME nor the RME followed this procedure laid down in the guidelines, which makes the reports liable to be set aside. In support of his submission, he places reliance on the Judgments of this Court in *Ajay Budaniya v. Union of India & Ors.*, 2024 SCC OnLine Del 408 and *Suraj Kumar v. Union of India & Ors.*, 2023 SCC OnLine Del 4685.

4. As far as '*Scoliosis*' is concerned, the learned counsel for the petitioner has placed reliance on the Report dated 05.08.2023 obtained by the petitioner from the Gajra Raja Medical College, J.A. Group of Hospitals, Gwalior, Madhya Pradesh, which has opined that '*clinically and radiologically, no deformity in spine is seen*'.



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5. The learned counsel for the petitioner submits that in the facts of the present case, the petitioner should be directed to be re-examined by a fresh Medical Board.

6. On the other hand, the learned counsel for the respondents submits that both the DME and the RME reports found the petitioner to be suffering from ‘*Scoliosis*’ and ‘*Tachycardia*’. Merely because the petitioner was not admitted to a hospital, does not mean that the reports should be suspected.

7. As far as ‘*Scoliosis*’ is concerned, she submits that the RME Board has also observed drooping of the right shoulder of the petitioner, which is one of the visual signs mentioned in the ‘Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles’ (hereinafter referred to as, ‘Recruitment Medical Guidelines’), that are to be observed by the Medical Board while determining if the candidate is suffering from ‘*Scoliosis*’. She submits that merely because the private hospital did not find or report any deformity in the spine of the petitioner cannot be a ground for rejecting the opinion of the RME Board.

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

9. As far as *Tachycardia* is concerned, Clause 7(e) of the RME Medical Guidelines reads as under:

“7. Following examples are cited for the guidance of Review Medical Board:-

xxxx

e) For candidates who have been rejected on the ground of hypertension/tachycardia should



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be admitted/hospitalized by the Board before giving their final opinion regarding the candidate's fitness or otherwise. The hospitalization report should indicate whether the rise in blood pressure is of transient nature due to excitement etc. or whether it is due to any organic disease. In all such cases X-Ray and electrocardiographic examinations of heart and blood examinations like cholesterol/lipid profile, S. Creatinine etc, tests should also be carried out."

10. A reading of the above would show that before declaring the candidate 'Unfit' for appointment on the ground of '*Tachycardia*', the Medical Board should have the candidate admitted to a hospital to observe the candidate over a period of time. This Court, in the judgments referred to hereinabove, has held that where the candidate is not hospitalized, it would call for a fresh Medical Examination of the candidate to be conducted in accordance with the RME Medical Guidelines.

11. As far as '*Scoliosis*' is concerned, the Recruitment Medical Guidelines do indicate that the same can be determined by way of a visual observation of various signs and features that are mentioned in Clause 6(XI) of the Recruitment Medical Guidelines. While the RME Report does mention that it observed drooping of the right shoulder of the petitioner, it does not seem that any detailed investigation was done for reaching its conclusion that the petitioner is suffering from '*Scoliosis*'. On the other hand, the petitioner has produced before us the opinion from the Gajra Raja Medical College, J.A. Group of Hospitals, Gwalior, Madhya Pradesh, which the learned counsel for the petitioner submits is one of the empanelled Super Specialty



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Hospitals for the Border Security Force ('BSF'), whose opinion we have reproduced hereinabove.

12. Given the facts of the present case, where in the case of '*Tachycardia*', proper procedure as per the RME Medical Guidelines has not been followed by the DME and the RME, and in the case of '*Scoliosis*', no detailed investigation was done for reaching the conclusion that the petitioner is suffering from the same, and keeping in view the opinion from the Gajra Raja Medical College, we are of the opinion that the petitioner should be re-examined by a fresh Medical Board, to be constituted by the respondents.

13. The freshly constituted Medical Board should not contain members of the original DME or the RME Boards. It must, however, have a specialist Orthopedician as a member.

14. The exercise of re-examination of the petitioner must be completed within a period of eight weeks from today. The petitioner shall be given at least three days' advance notice for appearing before the freshly constituted Medical Board.

15. In case the petitioner is found to be 'Fit' for appointment, the further process for his appointment shall be carried out by the respondents. In case the petitioner is found to be 'Unfit' for appointment, reasons thereof shall be supplied to the petitioner, and it shall be open to the petitioner to challenge the same in accordance with law.



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16. The petition, along with the pending application, is disposed of in the aforesaid terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 17, 2025/sds/sk/SJ

Click here to check corrigendum, if any