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

Reserved on: 20th November, 2025
Pronounced on: 27th November, 2025

+ W.P.(C) 11077/2019

RAJESH KUMAR

.....Petitioner

Through: Mr. Sudhir Nandrajog, Sr. Advocate
with Mr. Raghunath Pathak and Ms.
Ankita Singh, Advs.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Jitendra Kumar Tripathi, SPC
with Mr. Sumit Kumar Raj, Advs.

CORAM:**HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MS. JUSTICE MINI PUSHKARNA****JUDGEMENT****MINI PUSHKARNA, J.**

1. The present writ petition has been filed seeking to quash and set aside the Office Order dated 12th April, 2019, issued by the respondent, i.e., Indo-Tibetan Border Force ("ITBP"). By way of the said Office Order, the petitioner herein has been declared "Invalidation Medical Board Out" w.e.f. 12th April, 2019, for being afflicted with "Alcohol Dependence Syndrome with Nicotine/Tobacco Abuse" and "Diabetes Mellitus ("DM") Type-II".
2. The petitioner joined the ITBP as a constable on 11th August, 2007, and was posted under Commandant 33rd Battalion, ITBP. He was kept in Low Medical Category S-5 w.e.f. 16th July, 2011, on the ground that he was an alcohol addict.
3. The petitioner was sent for examination by the Medical Board. An Invalidation Medical Board of the petitioner was conducted on 10th October,



2018, at *Tezpur (Assam)*, and he was declared to be a case of “Alcohol Dependence Syndrome with Nicotine/Tobacco Abuse” and “DM Type-II”. Pursuant thereto, a Show Cause Notice dated 26th February, 2019 was issued to the petitioner by the respondents under Rule 26(3) of the Indo-Tibetan Border Police Rules, 1994 (“ITBP Rules, 1994”), read with Rule 2(2) of Central Civil Services (Medical Examination) Rules, 1957 (“CCS Rules, 1957”), wherein, the petitioner was given one month notice for termination of his service on medical grounds.

4. Subsequently, in response to the said Show Cause Notice, the petitioner submitted a Certificate dated 16th March, 2019, from B.D. Pande District Hospital, Pithoragarh, Uttarakhand, which declared him healthy physically and mentally, other than the disability of DM Type-II. Thereafter, considering the documents on record, the petitioner was terminated from service *vide* Office Order dated 12th April, 2019. Against the same, the petitioner filed a statutory appeal, and during the pendency of the said statutory appeal, the present writ petition was filed, by way of which the petitioner has sought his reinstatement in service.

5. Learned Senior Counsel appearing on behalf of the petitioner submitted that a Medical Review Board was not constituted, despite the petitioner requesting for the same, and sought setting aside of the impugned Office Order terminating the services of the petitioner on the said basis, with further prayer for directions to the respondents to constitute a Medical Review Board to examine the petitioner. Learned Senior Counsel for the petitioner further submitted that the Certificate dated 16th March, 2019, submitted by the petitioner, as issued by a Government Hospital, clearly declared him as mentally and physically fit. Despite the same, the petitioner



was wrongly and arbitrarily terminated from the service, without examination of the petitioner by a Medical Review Board.

6. In the alternative, it was prayed that the case of the petitioner be treated as “Compulsorily Retired from Service” instead of “Invalidation from Service”, so that the petitioner could avail of pension, medical and other consequential benefits. For this purpose, learned Senior Counsel for the petitioner relied upon a judgment dated 10th July, 2023, passed by the Division Bench of this Court in *W.P.(C) 6906/2016*, titled as “*Kamlesh Kumar Versus Union of India and Ors.*”.

7. *Per contra*, learned counsel appearing for the respondents submitted that there was no request for a Medical Review Board by the petitioner, and justified the impugned Office Order by which the petitioner was terminated from service.

8. Having heard learned counsels for the parties and having perused the record, at the outset, this Court notes that against the impugned Office Order dated 12th April, 2019, the petitioner filed a statutory appeal dated 12th July, 2019. The said statutory appeal filed by the petitioner was dismissed *vide* Office Memorandum (“OM”) dated 18th March, 2020, during the pendency of the present writ petition. The said OM dated 18th March, 2020, has not been challenged by the petitioner. Thus, the said OM rejecting the appeal of the petitioner herein, and confirming the Office Order terminating the service of the petitioner, has attained finality.

9. It is to be noted that the Medical Board held on 10th October, 2018, opined that the petitioner herein was completely and permanently incapacitated for further service of any kind in the ITBP, in consequence of



“Alcohol Dependence Syndrome with Nicotine/Tobacco Abuse, along with DM Type-II”.

10. Thus, *vide* Show Cause Notice dated 26th February, 2019, the petitioner was put to Show Cause and given one month notice for termination of his service on account of being medically unfit for service in the ITBP. The petitioner was granted liberty to request for further examination by a Medical Review Board, supported by *prima facie* evidence from a Government Doctor that good ground exists for such Medical Review Board. However, the petitioner did not avail of the said opportunity, and made no request for further examination by Medical Review Board.

11. Though, learned Senior Counsel appearing for the petitioner submitted that the petitioner had made such request for further examination by a Medical Review Board, however, there is nothing on record to support such a plea. There is no application on record on behalf of the petitioner praying for his examination by a Medical Review Board, nor is there any pleading to this effect by the petitioner in the writ petition that an application was submitted on his behalf for the same. Therefore, in the absence of any such request by the petitioner, there was no occasion for the respondents to refer the case of the petitioner for further examination by a Medical Review Board.

12. Even otherwise, the reliance placed on behalf of the petitioner upon the Certificate issued by the Chief Medical Superintendent, B.D. Pande District Hospital, Pithorgarh, Uttarakhand, is totally misplaced. The said Certificate simply states that the petitioner was healthy, physically and mentally. However, the said Certificate did not mention, certify or declare that the petitioner was not suffering from “Alcohol Dependence Syndrome



or Nicotine/Tobacco Abuse”. The said Certificate, as submitted by the petitioner, did not certify fitness of the petitioner in that regard.

13. This Court further takes into account that the petitioner was terminated from service *vide* Office Order dated 12th April, 2019, and it has been more than six years since the petitioner was medically examined by the respondents, before terminating his service.

14. Considering the detailed discussion hereinabove, the petitioner has failed to establish a case in his favour for any direction by this Court for further examination of the petitioner by a Medical Review Board. The plea of the petitioner in this regard is devoid of any merit.

15. The judgment relied by learned Senior Counsel for the petitioner in the case of *Kamlesh Kumar (Supra)*, also does not come to the aid of the petitioner, and is clearly distinguishable. In the said case, the Court took note of the fact that the appeal preferred by the petitioner in the said case remained unanswered, and his request for Medical Review Board was also turned down. However, no such circumstances and facts exist in the present case.

16. No merit is found in the present writ petition. The same is accordingly, dismissed.

**MINI PUSHKARNA
(JUDGE)**

**DINESH MEHTA
(JUDGE)**

NOVEMBER 27, 2025/kr/ak