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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 11.09.2025

+ W.P.(C) 13719/2024 & CM APPL. 57431/2024, CM APPL. 57433/2024

STAFF SELECTION COMMISSION & ORS.Petitioners

Through: Mr. Arnav Kumar, CGSC with
Ms. Shreeya Sud, Adv.

versus

SWARAJ

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioners challenging the Order dated 10.05.2024 passed by learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 1858/2024 titled ***Swaraj v. Staff Selection Commission and Ors.*** disposing of the said O.A. with the following directions: -

“4. In the conspectus of things, we find that the facts in the present case and the ones in the aforesaid OA are similar, in all fours. Accordingly, the instant OA is also disposed of on the same analogy. Respondents are hereby directed to comply with the aforesaid directions (OA No. 519/2024 – Teekaram Singh Meena vs. SSC and Ors.) within twelve weeks from the date of receipt of a certified



copy of this order.”

2. In spite of service of notice, none has appeared for the respondent. We, therefore, have proceeded *ex parte* against the respondent.

3. At the outset, we would note that the learned Tribunal, in passing its Impugned Order, has merely placed reliance on its earlier order passed in O.A. No.519/2024 titled ***Teekaram Singh Meena vs. SSC and Ors.*** without appreciating the peculiar facts of the present case. We have, in other Judgments of ours stated that the learned Tribunal is expected to appreciate the facts of each case rather than deciding these cases of rejection of candidates on medical unfitness by applying a one size fit all policy.

4. Be that as it may, we have examined the present petition on merits as well.

5. In the present case, the respondent had been declared ‘unfit’ for appointment to the post of Constable (Executive) made on the ground of being found unfit in the Detailed Medical Examination *vide* report dated 21.01.2024 on the following grounds: -

“ 1. *Cubitus Valgus*
2. *Tatto mark on Rt. hand & forearm*”

6. Aggrieved by the same, the respondent applied for a Review Medical Examination. The Review Medical Examination Board referred the respondent to the Guru Teg Bahadur Hospital, Shahdara, Delhi (‘GTBH’) for an opinion of an Orthopedic. A Board of Doctors at GTBH, which included specialist orthopedics, declared that the



respondent has an issue with the elbow extension *vide* a report dated 25.01.2024. Based on this report, the Review Medical Examination Board also declared the respondent 'unfit' for appointment, *vide* its report dated 27.01.2024, on account of the tattoo as well as on account of cubitus valgus.

7. In the present case, as the respondent had been examined by the medical experts, the opinion of such experts could not have been brushed aside in a casual manner by the learned Tribunal. Merely because the respondent placed reliance on certain report of Civil Hospital, Rohtak and Jhajjar, the medical opinion of the expert could not have been reopened. In this regard, we place reliance on the Judgment of our Co-ordinate Bench in ***Staff Selection Commission v. Aman Singh***, 2024 SCC OnLine Del 7600, wherein this Court had *inter-alia* held as under:

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

xxx

*(v) Opinions of private, or even government, hospitals, obtained by the concerned candidate, cannot constitute a legitimate basis for referring the case for re-examination. At the same time, if the condition is such as require a specialist's view, and the Medical Board and Review Medical Board do not include such specialists, then the Court may be justified in directing the candidate to be re-examined by a specialist or by a Medical Board which includes a specialist. In passing such a direction, the Court may legitimately place reliance on the opinion of such a specialist, even if privately obtained by the candidate. **It is reiterated, however, that, if the Medical Board or the Review Medical***



Board consists of doctors who are sufficiently equipped and qualified to pronounce on the candidate's condition, then an outside medical opinion obtained by the candidate of his own volition, even if favourable to him and contrary to the findings of the DME or the RME, would not justify referring the candidate for a fresh medical examination."

(emphasis supplied)

8. Accordingly, the petition is allowed. The Impugned Order cannot be sustained and is set aside.

NAVIN CHAWLA, J

MADHU JAIN, J

SEPTEMBER 11, 2025/ys/RM