



2025:DHC:520-DB



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

Date of decision: 28th January, 2025

+ W.P.(C) 12973/2018

CT/GD JAGANNATH MOHANTA

.....Petitioner

Through: Ms. Ankita Patnaik, Adv.

versus

UNION OF INDIA ANR ORS.

.....Respondents

Through: Mr. Arnav Kumar, CGSC with
Ms. Shreeya Sud, Adv. with
Mr. G.S. Rathor, AC and Mr.
Yespal, Insp., CISF.

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, who has been serving as a Constable (General Duty) in the Central Industrial Security Force (CISF), praying for the following reliefs:-

“(A) Issue of a writ of mandamus directing the Respondents to appoint (by way of LDCE-2017) to the post of Assistant Sub-Inspector(Exe) and grant him all consequential benefits except back wages;

(B) Issue of Writ of Certiorari quashing the findings of medical board dated 10.08.2018 and review medical board dated 26.09.2018.”

2. The facts necessary for the disposal of the present writ petition are that the petitioner was enrolled in the CISF as a Constable



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(General Duty) on 06.09.2008, and has been working in the aforementioned post since his enrolment. It is the case of the petitioner that he has undergone multiple Annual Medical Examinations conducted by the respondents, in which he has consistently been adjudged as being in the Medical Category SHAPE-I.

3. The petitioner had applied for the post of Assistant Sub-Inspector (ASI) Executive through the Limited Departmental Competitive Examination-2017 (LDCE). However, the petitioner was declared 'unfit' for appointment as in his Medical Examination, he was found to be suffering from '*DEFECTIVE DISTANT VISION RIGHT EYE – 6/12 (BETTER EYE)*'

4. The learned counsel for the petitioner submits that post the above declaration, the petitioner got himself examined at the District Hospital Baripada, Odisha, on 16.08.2018, where he was declared fit for duty by a Specialist.

5. He submits that since the petitioner had been declared 'unfit' on the ground of defective distant vision, the petitioner underwent a refractive laser surgery on 20.08.2018 at the L V Prasad Eye Institute Bhubaneshwar to rectify his defective distant vision. Thereafter, the petitioner applied for a review medical examination, however, on 26.09.2018, was again declared 'unfit' by the Review Medical Board due to '*att refractive surgery rt. eye*'.

6. The learned counsel for the petitioner submits that the petitioner has always been placed in SHAPE-I Medical Category since his



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enrolment in the Force and, therefore, he cannot be declared ‘unfit’ for appointment.

7. On the other hand, the learned counsel for the respondents submits that as per the ‘Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles’ dated 20.05.2015, and the ‘Policy Guidelines on Visual Standards for recruitment/retention in respect of the Central Armed Police Forces and Assam Rifles personnel’ dated 18.05.2012, if a candidate is found to be suffering from ‘*defective distant vision*’, even if operated upon, is to be declared unfit for appointment.

8. He submits that merely because the petitioner was declared to be in SHAPE-I Category in his Annual Medical Examinations, the same would not be a ground for rejecting the report of his medical examination conducted for the LDCE. He places reliance on the judgment of the Supreme Court in ***Pavnesk Kumar v. Union of India and Other***, 2023 SCC OnLine SC 1583.

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

10. The issue of whether a candidate, who is otherwise declared to be in SHAPE-I Medical Category, can still be rejected for appointment through the LDCE if found ‘unfit’ on medical grounds, has been considered by a Full Bench of this Court in the present writ petition, observing as under:-

“3. The Supreme Court in the above judgment, has held that even though the candidate in the routine annual medical check-up had been declared to be in SHAPE-I category, the same



was merely the eligibility condition for applying to the post of Sub-Inspector (GD) through the LDCE, and was not a part of the examination process for selection to the post of Sub-Inspector (GD) through the LDCE. In case the candidate does not clear the medical examination conducted as part of the recruitment process under the LDCE, the candidate, in such a case, therefore would be considered as not having cleared Stage-V of the LDCE selection process. Further, the plea of the candidate that the LDCE is merely a fast-track promotion and not a case of fresh appointment, was also rejected by the Supreme Court, by holding that the LDCE is not a normal promotion rather, it is selection for a higher post from amongst the eligible candidates working on the lower post. It was held that the selection had to be conducted in terms of the advertisement and the scheme of the selection contained therein. The condition of clearing the medical examination was, therefore, an eligibility condition that had to be met in addition to the candidate being in medical category SHAPE-I.

4. In view of the above, the question of law that has been referred to this Full Bench, is covered by the judgment of the Supreme Court in Pavnesh Kumar (supra).

11. In **Pavnesh Kumar** (supra), on which reliance has been placed by the Full Bench, the Supreme Court rejected a plea similar to the one taken by the learned counsel for the petitioner, on the effect of the candidate being in SHAPE-I but being found unfit in the medical examination for LDCE, observing as under:

13. It was next contended that the appointment through LDCE is like fast-track promotion and is not a fresh appointment. Therefore, recruitment rules and guidelines applicable to the normal mode of promotion would have



been applied and not any different medical standards.

14. No doubt appointment to a higher post of an incumbent working on lower post is in the form of an accelerated promotion but it cannot be equated with normal mode of promotion. This is evident from the advertisement itself which in unequivocal terms states that applications are invited for selection to the post of Sub-Inspector (GD) in BSF through LDCE. The very fact that the applications were invited for selection to the post of Sub-Inspector (GD) connotes that it was not a normal promotion rather selection to the higher post from amongst the eligible candidates working on the lower post. Thus, the submission that the normal rules of promotion or medical examination ought to have been applied, is not acceptable.

15. This apart, selection was to be conducted in terms of the advertisement. The scheme of the selection contained in the advertisement categorically provided clearing of the examination in all the five stages which included detailed medical examination. This was independent and in addition of the eligibility condition that a candidate must possess the medical category SHAPE-I while working on the lower post.

16. Additionally, a distinction has to be drawn between a normal promotion and promotion by selection through LDCE. Promotion by selection through LDCE vis-à-vis competitive examination is a facility or a chance given for out of their promotion without waiting for the normal course of promotion. It in effect is selection through competitive examination within the limited category of candidates and cannot be equated with normal promotion. This being the position, the argument that regular promotion criteria had to be applied with regard to medical fitness even in the matter of selection through LDCE is not acceptable.



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17. In view of the above facts and circumstances, we find no substance in the appeal. There is no review of the medical of the appellant and the declaration that he is “medically unfit”, is not contrary to any earlier reports as he was never declared to be medically fit in the process of examination for selection to Sub-Inspector (GD) through LDCE.

12. In view of the above, the submission of the petitioner that the petitioner was declared to be in SHAPE-I Medical Category while working as Constable (GD), can be of no relevance. The fact remains that the petitioner has been declared ‘unfit’ for appointment in the medical examination conducted for the LDCE examination in terms of the Scheme for the examination announced by the respondents. Stage V of the same required the candidate to be declared ‘fit’ in the medical examination, which the petitioner could not meet.

13. As far as the submission of the learned counsel for the petitioner that the petitioner has later undergone an operation and has been declared fit for duty is concerned, we do not find merit in the same. The Medical Guidelines dated 18.05.2012, specifically clause 4(h)(ii) thereof, clearly states that if a candidate requires vision correction surgery, then the candidate shall not be eligible for at least 6 month for appearing for the examination. The same is quoted as under:

“4. The said board had submitted its recommendations wherein while stating that there is necessity to review the visual standards in CAPFs & ARs to avoid litigations, they have also observed that :

xxx

h. All the Direct Appointed Gazetted Officers



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(DAGOs) in CAPFs and ARs are graduate. LASIK is proposed as an acceptable method for vision correction for all DAGOs for selection in CAPFs/ARs. The acceptance standards for these surgeries are to be made uniform across the CAPFs as under:

xxx

ii) Surgery at least 6 months before examination."

14. In view of the above, the petitioner cannot claim the benefit of having undergone the corrective surgery post his declaration as 'unfit' by the Medical Board.

15. We, therefore, find no merit in the present petition. The same is, accordingly, dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 28, 2025
SU/FRK/SJ

Click here to check corrigendum, if any