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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 30th November, 2021

+ **W.P.(C) 10422/2021**

MOHIT

..... Petitioner
Through Mr.Abhishek Kr Choudhary,
Adv.

versus

UNION OF INDIA & ORS.

..... Respondents
Through Mr.Rajan Sabharwal, Adv. for
UOI.
Mr.Jagjit Singh, Sr. Standing
Counsel for the Railways with
Mr.Preet Singh and Mr.Vipin
Chaudhary, Advs.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

CM 32053/2021(exemption)

Allowed, subject to all just exceptions.

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1. The present petition has been filed by the petitioner praying for a direction to the respondents to facilitate a fresh Medical Examination with any independent hospital and to appoint the petitioner to the post of Constable in Railway Protection Force (hereinafter referred to as 'RPF').
2. It is the case of the petitioner that pursuant to the Employment Notice No./Constable/RPF-01/2018, the petitioner applied for

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appointment to the post of Constable/RPF. The petitioner cleared the written examination and qualified the test on merit and was thereafter called upon to report in the office of Senior Divisional Security Commissioner/RPF/NR at DRM/NR Office, Hazarat Ganj, Lucknow on 27.08.2019 for a Medical Examination. In such Medical Examination the petitioner, however, was declared unfit in 'BEE-One' category. The petitioner appealed against the said finding.

3. The petitioner was thereafter called for a Re-Medical Examination to be conducted at Northern Railway Central Hospital, New Delhi wherein the petitioner was verbally informed that he had been found fit for appointment. The petitioner asserts that the report of Re-Medical Examination was, however, not given to the petitioner.

4. The petitioner was then called for a third Re-Medical Examination vide letter dated 16.12.2019 to be conducted by Northern Railway Divisional Hospital, Delhi on 08.01.2020. The third Re-Medical Examination was conducted on the petitioner on 09.01.2020. The petitioner was again declared unfit in 'BEE-One' category due to sub-standard vision. In yet another Medical Examination conducted on 26.02.2020, the petitioner was again declared unfit in the medical category of 'BEE-One'. The petitioner asserts that the petitioner thereafter got himself examined by an Eye Specialist Doctor at District Civil Hospital, Sonapat who declared him to be medically fit. The petitioner thereafter represented against the medical finding of the respondents, however, having failed to receive a response, filed the present petition.



5. By an order dated 17.09.2021, the respondents were directed to produce the original medical file of the petitioner before the Court. In compliance with the said order the file has been produced by the respondents and perused by the Court.

6. A perusal of the file shows that the petitioner was medically examined at the Divisional Hospital, Lucknow and found unfit with an uncorrected vision of 6/24 (right eye) and 6/9 (left eye). The petitioner appealed against the same. The petitioner was thereafter examined at the Northern Railway Central Hospital on 18.11.2019 and declared fit for the post of Constable/RPF in 'BEE-One' medical category. The petitioner was thereafter subjected to yet another medical examination at Northern Railway Divisional Hospital on 09.01.2020 and again declared unfit for medical category 'BEE-One' as per Para 512(1) A note(a) of IRMM 2000. By an order dated 31.01.2020 passed by the Principal Chief Medical Director, Northern Railway, in view of the divergent findings of the Medical Board(s) and the discrepancies therein, a Medical Board of twelve members who were earlier part of three Medical Boards was directed to review the case and provide a final recommendation with speaking order. The petitioner was thereafter subjected to a medical examination by the Board of twelve members on 26.02.2020. In their final report dated 26.02.2020 while nine members of the Board reiterated the declaration of the petitioner as 'unfit' for the post of Constable/RPF for medical category 'BEE-One', three doctors reiterated their opinion that the petitioner was fit for appointment as his vision was found to be 6/12 (right eye) and 6/9 (left eye). The Chief Health Director, vide his

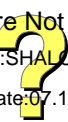


order dated 04.09.2020, accepted the recommendation of the majority of Members of the Board.

7. It is noted that three members of the Final Board, on a re-examination have reiterated their opinion of the petitioner being fit for appointment as Constable/RPF in medical 'BEE-One' category with a vision as 6/12 (right eye) and 6/9 (left eye). We also note that the Board of Doctors, who have finally examined the petitioner on 26.02.2020, were part of the earlier Board(s) and have basically reiterated their stand.

8. In view of the diversion in opinion of the Medical Board and in order to accord a fair opportunity to the petitioner to seek appointment as Constable/RPF, we deem it appropriate to direct the respondents to approach the R & R Hospital, Delhi with a request to constitute a Review Medical Board in respect of the petitioner to test his uncorrected eye vision. An Eye Specialist shall be made a part of the Review Medical Board. Such Board should be constituted within a period of two weeks from today. The respondents shall inform the petitioner and his counsel within a week from today of the constitution of the Review Medical Board and the date and time of the same. The petitioner shall appear before the Review Medical Board on the fixed date and time alongwith the relevant report(s). The respondents shall also forward the Medical record of the petitioner to the Review Medical Board to be constituted by R & R Hospital.

9. The Review Medical Board so constituted by the R & R Hospital shall submit its report directly to the respondents with a copy thereof to the petitioner through his counsel. It is made clear that both



the parties shall be bound by the report of the Review Medical Board of R & R Hospital, Delhi and it shall be treated as final. In case the petitioner is declared fit by the Review Medical Board in 'BEE-One' category, the respondents shall, subject to fulfilment of other eligibility/appointment conditions by the petitioner, appoint the petitioner as Constable RPF within four weeks of receipt of such report.

10. As the above direction is being passed in the peculiar facts of the present case, it shall not be treated as a precedent.

11. The petition is disposed of with the above directions. There shall be no order as to cost.

NAVIN CHAWLA, J

MANMOHAN, J

NOVEMBER 30, 2021/Arya/AB

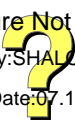
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