



2024:DHC:9300-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 30.11.2024*

+ W.P.(C) 16308/2024

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Nishant Gautam, CGSC
and Mr. Vipul Verma, Adv.

versus

DEV YADAV

.....Respondent

Through: Ms. Esha Mazumdar, Mr. Setu
Niket, Ms. Unni Maya and Mr.
Devansh Khatter, Adv.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****ORDER**

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30.11.2024**SHALINDER KAUR, J. (ORAL)****CM APPL. 68748/2024 (Exemption)**

1. Allowed, subject to all just exceptions.

W.P.(C) 16308/2024, CM APPL. 68747/2024

2. The present petition has been filed assailing the Order dated 14.05.2024 passed by the learned Central Administrative Tribunal (hereinafter referred to as, 'Tribunal') in Original Application (in short, 'OA') No. 794/2024 titled *Dev Yadav v. Staff Selection Committee & Ors.*, whereby the learned Tribunal has allowed the OA and directed the petitioners to conduct a re-medical examination of the



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respondent by constituting a fresh Medical Board.

3. The petitioners had advertised post of Constable (Executive) in the Delhi Police, pursuant to the Notification/Advertisement dated 01.09.2023. It is the case of the petitioners that the respondent had applied for recruitment to the aforesaid post and appeared in the Computer Based Examination (CBE), which was conducted pan-India from 14.11.2023 to 03.12.2023, and successfully qualified in the said exam. Thereafter, on 14.01.2024, he appeared for Physical Endurance and Measurement Test (PE&MT) conducted by the Delhi Police at their academies in Wazirabad and Jharoda Kalan, New Delhi. Subsequent thereto, the respondent underwent a Review Medical Examination (in short, 'RME') on 25.01.2024 conducted by the Review Medical Board (in short, 'RMB'), where the respondent was declared 'Unfit' due to '*Hypertension with Rt. Renal Calculus; mild Hydronephrosis*' and also '*defective colour vision*'. Consequently, the respondent was disqualified and no 'Offer of Appointment Letter' was issued to him. Being dissatisfied with the opinion given by RMB, the respondent filed the said OA before the learned Tribunal, which was disposed of by the learned Tribunal by directing the petitioners to conduct a fresh medical examination of the respondent by a Board of Doctors which must include a Specialist in the respective field(s) within twelve weeks from the date of receipt of a certified copy of the Impugned Order.

4. Aggrieved of the above direction, the petitioners have filed the present petition.

5. The learned counsel for the petitioners, reiterating the



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contentions recorded in his petition, submits that the learned Tribunal has erroneously directed the petitioners to conduct a fresh medical examination of the respondent, without providing any justification for the same. He submits that after the declaration of results, a number of candidates had challenged the rejection of their candidature on medical grounds and had approached the learned Tribunal by way of filing OAs. However, a majority of the other OAs were disposed of by the learned Tribunal without making a reference to the individual facts of the case. He submits that similarly, in the present case as well, the learned Tribunal has passed a mechanical order directing a fresh medical examination of the respondent without going into the facts of the present case, which is not warranted as the RMB has furnished a detailed opinion on the basis of the medical reports of the respondent and found him 'Unfit'. In this regard, the learned counsel has placed reliance on the decision of this Court in ***Staff Selection Commission & Anr. v. Vishal***, NC 2024:DHC:9144-DB.

6. *Per contra*, the learned counsel for the respondent, while supporting the Impugned Order, submits that a fresh medical examination is required in the present case as the Detailed Medical Board (in short, 'DMB'), on the basis of a single reading, had found the respondent to be suffering from high blood pressure and had declared his candidature 'Unfit' on medical grounds. With respect to the distant vision, it recorded the same as a '*Temporary Unfitness*' whereas, the RMB has declared the petitioner 'Unfit' on account of '*Hypertension with Right Renal Calculus; with mild Hydronephrosis*' and also with '*defective colour vision*'. She submits that in view of the



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difference in the opinion of the DMB and RMB, the respondent could not have been declared 'Unfit' by the petitioners and the learned Tribunal has rightly directed for the composition of a fresh Medical Board.

7. We have heard the counsels for the parties and perused the record.

8. In the present case, the respondent was medically examined by the DMB and was found 'Unfit' on account of '*High blood pressure*', the same being 166/96 mm Hg and '*temporarily Unfit*' on account of distant vision, being R-6/9 and L-6/12. The RME of the respondent was conducted on 25.01.2024, and after considering the medical reports of the respondent, the petitioners found him 'Unfit' on account of '*Hypertension with Right Renal Calculus with mild Hydronephrosis*' and '*defective colour vision*'.

9. The learned Tribunal has not examined the medical reports and the opinion of the Medical Boards placed before it. The learned Tribunal has mechanically reproduced the extracts from its previous orders and the judgments passed by this Court without assigning any reasons while passing directions for the re-examination of the respondent by a fresh Medical Board.

10. In *Staff Selection Commission & Anr. v. Vishal* (supra), this Court had remanded the case to learned Tribunal for *de novo* adjudication, keeping in mind the principles laid down by this Court in *Staff Selection Commission v. Aman Singh*, 2024 SCC OnLine Del 7600 and *Staff Selection Commission v. Amit Goswami*, 2024 SCC OnLine Del 7985.



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11. In light of the above, as the Order passed by the learned Tribunal in the present case is devoid of any reasons and without application of mind, and the directions for a fresh medical examination has been passed in a mechanical manner, therefore, the Impugned Order dated 14.05.2024 is set aside. The OA is remanded back for fresh adjudication, keeping in view the principles laid down by this Court in *Aman Singh* (supra) and *Amit Goswami* (supra).

12. The parties are directed to appear before the learned Tribunal on 09.12.2024.

13. The writ petition is disposed of in the aforesaid terms.

SHALINDER KAUR, J

NAVIN CHAWLA, J

NOVEMBER 30, 2024/ss/F/SJ

Click here to check corrigendum, if any