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

+ W.P.(C) 2513/2018

NAVEEN KUMAR Petitioner

Through: Mr.Tarjit Singh, Advocate.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr.Prasanta Varma, CGSC
with Ms.Shalu Goswami,
Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **15.05.2018**

1. In response to an advertisement for recruitment to the post of Constable (GD) – 2015 in CAPFs, NIA and SSF, the petitioner had participated in the Combined Recruitment Written Examination. He qualified the written examination and was directed to appear for a physical test and medical examination. On 23.05.2016, the petitioner was declared medically unfit on three counts : (i) varicose vein (left), (ii) Tremors (fine), and (iii) Tachycardia. He was informed about his right to file an appeal against the findings of the Medical Examination Board and was advised to apply for a review medical examination after obtaining necessary medical certificate from a Medical

Practitioner within 15 days, failing which his candidature for recruitment as Constable (GD) in CAPFs would be treated as cancelled without any further notice.

2. The petitioner got himself treated surgically for varicose veins at Swastik General Surgery and Laparoscopy Hospital, Rohtak where he remained admitted from 28.05.2016 to 30.05.2016. On the day of his discharge itself i.e. on 30.05.2016, the petitioner got himself medically examined by the Chief Medical Officer, General Hospital, Jhajjar, who declared him to be fit for recruitment to the post of Constable (GD) in CAPFs. After undergoing correctional surgery and on being declared fit, the petitioner applied for a Review Medical Examination, which was conducted on 27.08.2016. The petitioner has alleged that the Review Medical Board declared him unfit without even examining him. Thereafter, the petitioner again approached Swastik General Surgery and Laparoscopy Hospital, Rohtak. After he was subjected to undergo a Colour Doppler Varicose Vein Test, he was certified to be 'Fit'.

3. Thereafter, the petitioner again requested the respondents for getting himself medically examined by a larger Board of Doctors at some reputed hospital, which was not responded to by the respondents.

4. The petitioner approached the Punjab & Haryana High Court by filing CWP No.23207/2016, which was subsequently withdrawn, purportedly on account of lack of territorial jurisdiction. Thereafter he filed the instant petition with the following prayer:-

“To issue a writ in the nature of certiorari for quashing

the letter dated 24.05.2016 and letter dated 27.08.2016 vide which the petitioner has been declared medically unfit for the post of Constable in CRPF, and further for issuance of a writ in the nature of mandamus directing the respondents to have the petitioner medically re-examined by constituting a medical board (Board of Doctors) either (i) All India Institute of Medical Sciences (AIIMS)- Delhi, (ii) PGIIMS – Rohtak, or (iii) PGIMS – Chandigarh, in the interest of justice.”

5. Mr. Tarjit Singh, learned counsel for the petitioner has submitted that the petitioner has made an innocuous prayer that his medical examination be conducted at any reputed Hospital like AIIMS for the reason that he has been declared fit repeatedly, not only by Swastik General Surgery and Laparoscopy Hospital, Rohtak but also by the Chief Medical Officer, General Hospital, Jhajjar. He further submits that it was a minor correctional surgery and even as per the Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, mild varicocele i.e. if veins are palpable after valsalvamanoeuvre, otherwise invisible, is a minor acceptable defect. Thus, the petitioner could not have been declared unfit.

6. Mr. Prasanta Varma, learned counsel for the respondents has also referred to the Revised Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles as in May, 2015 (in short; Guidelines), wherein under the head ‘General Grounds for Rejection’, Guideline No.6(29) stipulates as under:-

“29) Varicose veins. The diagnosis of varicose vein should be made on the basis of dilatation and tortuosity of veins and after confirmation of incompetency of Sapheno-femoral junction/Sapheno-popliteal junction or

perforators by relevant clinical tests. Only prominence of veins should not be criteria for rejection. Cases of Varicose Veins, even if operated, are not to be accepted because basic defect remains unchanged.”

7. Learned counsel for the respondents has referred to the study conducted on the subject and the side effects that new varicose veins may develop again after a surgery. This can happen, for instance, if the vein was not completely removed. Over a period of up to ten years, after two years in 30 out of 100 people who had undergone surgery, varicose veins had returned. After ten years, 70 out of 100 people had varicose veins again.

8. We have perused the Dossier of the petitioner produced in original before this Court as well the Revised Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles and also considered the rival contentions.

9. The mere fact that the petitioner had to undergo correctional surgery for varicose veins shows that it did not fall under the category of ‘Minor Acceptable Defects’, as stipulated under Guideline No.7(e) of the Guidelines. Thus, the case of the petitioner cannot be treated to be that of ‘mild varicocele’.

10. The report of the Review Medical Board for declaring the petitioner unfit is extracted as under:-

*“1) Reason for Medical Unfitness : (i) Varicose Vein (left)
(ii) Fine Tremors
(iii) Tachycardia.*

2) Brief of Review Medical

Examination & Finding thereof. : (1) HR- 27/8/16 (i) 78/min.

(ii) 76/min.

(2) No tremors seen.

(3) Varicose vein left leg operated.

3) *Final Opinion* : *Unfit*”

11. The review medical examination report clearing the petitioner for Tremor and Tachycardia but declaring him unfit for varicose vein (left leg operated) itself shows that he has been subjected to complete medical examination by the Review Medical Board. Thus, his claim that the Review Medical Board has given the report without subjecting him to medical examination, stands falsified from his Dossier.

12. The petitioner has admittedly been operated on for varicose vein. The Review Medical Board has examined him and declared him ‘unfit’ in terms of Guideline No.6(29) of the Guidelines.

13. The ramifications/side effects with regard to the operated cases of varicose vein are that it ultimately leads to impairment of circulation of the blood and the individuals, who have their varicose veins operated, have a predisposition of developing varicose veins in other vessels. A study on the subject reveals that the patient with varicose veins have pain/heaviness of legs, inability to walk/stand for long hours, itching and leg cramps at night and they can also have dermatitis in the region, which may lead to development of ulcers. Given the above position, the petitioner may be medically fit for civilian jobs, as declared by Swastik General Surgery and Laparoscopy Hospital, Rohtak and Chief Medical Officer, General Hospital, Jhajjar, but not for military/paramilitary posts, which entails

working in extreme conditions and involves much more physical activity.

14. Thus, the decision by the Medial Board and the Review Medical Board declaring the petitioner to be unfit cannot be faulted and requires no intervention by this Court in exercise of its power under Article 226 of the Constitution of India.

15. The writ petition is accordingly dismissed.

PRATIBHA RANI, J.

HIMA KOHLI, J.

MAY 15, 2018

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