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

% *Date of Decision: 25<sup>th</sup> June, 2025*

+ W.P.(C) 8519/2025  
ASHWANI KUMAR

....Petitioner

Through: Mr. Pankaj Mehta, Ms. Shweta Soni,  
Ms. Akansha Singh and Ms. Simran  
Mehta, Advocates

versus

UNION OF INDIA

....Respondent

Through: Mr. Ankur Mittal, CGSC with Mr.  
Aviraj Pandey, Advocate for UOI.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**HON'BLE MS. JUSTICE RENU BHATNAGAR**

**J U D G M E N T (oral)**

1. The petitioner seeks constitution of a Review Medical Board (RMB) as according to him, he has been arbitrarily and unjustifiably rejected, being medically unfit.
2. Pursuant to the Notification issued for recruitment through Combined Defence Services Examination-II (CDS-II), 2024, the petitioner applied for his recruitment in Indian Air Force (IAF) for Flying Branch. The petitioner cleared the written examination and was issued letter asking him to appear for medical examination for commissioning into Indian Air Force (Flying Branch). Pursuant to such call letter, he appeared for medical examination which took place on 17.03.2025. However, as per the report given by the concerned Medical Board, he was found unfit for the following reasons:

*“(1) OVERWEIGHT (2) KNOCK KNEE (3) DISC DEGENERATIVE DISEASE (4) UNILATERAL INCOMPLETE SACRALIZATION OF LV5 LLSTV-II a)”*

3. The petitioner was also apprised that he had a right to file appeal



against the abovesaid decision.

4. According to petitioner, he challenged the abovesaid decision of Medical Board by filing an appeal and appeared before the Appellate Medical Board also but he was, orally, apprised that he was unfit, being suffering from Lumbosacral Transitional Vertebra (LSTV)- Type IIa-right.

5. It also seems that he was declared fit for the other three alleged disabilities.

6. It is submitted that the communication in this regard was only oral and prior to appearing before the Appellate Medical Board, petitioner had already obtained an opinion from the premium-most institution of the country i.e. All India Institute of Medical Sciences (AIIMS), New Delhi and as per opinion given by AIIMS on 11.04.2025, the petitioner was, merely, having, Type IA Lumbosacral Transistional Vertebra, which is neither a disability nor a reason for rejection.

7. It is also contended that in view of the abovesaid specific opinion and observation given by AIIMS, New Delhi, the petitioner could not have been declared unfit in a cursory manner and that such opinion was never even seen by the Appellate Medical Board which, eventually, gave its opinion on 01.05.2025.

8. Learned counsel for the respondent appears on advance notice and has placed on record the findings given by the Appellate Medical Board. There is nothing therein which may indicate that the abovesaid opinion given by AIIMS was seen by the Appellate Medical board or, for that matter, disregarded, while giving any reason.

9. Admittedly, if the petitioner is suffering from Type IA Lumbosacral Transistional Vertebra, he is not unfit for being recruited as a Flying Officer.



In terms of Recruitment Notification, if any such applicant is suffering from LSTV-Castellvi Type IIa & b, IIIa & IV, it will be considered as a condition which is unfit for being recruited in Indian Air Force. Reference in this regard be made to Clause 5 of MUSCULOSKELETAL SYSTEM AND PHYSICAL CAPACITY which makes various categories of spinal conditions unfit for Air Force Duties (both flying and ground duties). Sub Clause (xi), which is also one such spinal condition reads as under:-

*“(xi) Unilateral sacralisation or lumbarisation (complete or incomplete) and Bilateral incomplete sacralisation or lumbarisation (LSTV- Castellvi Type II a & b, III a & IV) (Bilateral Complete Sacralisation of LV5 and Bilateral Complete Lumbarisation of SV1 i.e LSTV Castellvi Type III b and Type I a & b are acceptable (Annotation is to be made in AFMSF-2)”*

10. Learned Counsel for petitioner has also strongly relied upon judgment dated 22.11.2024 of the Coordinate Bench of this Court given in W.P.(C) 15281/2024 titled as *Sajal Saha Vs. Union of India and Others* wherein also, in almost identical situation, the candidate was declared unfit on account of LSTV-Castellvi Type IIa and was referred for further medical examination at Army Research and Referral Hospital, Delhi Cantt., New Delhi. In that case also, the Coordinate Bench was persuaded by the opinion coming from a doctor of AIIMS Hospital and therein also AIIMS had opined that the variation noted in the X-ray did not restrict the petitioners’ daily activities.

11. Undoubtedly, the petitioner has been re-examined exhaustively by the Appellate Medical Board but keeping in mind the overall facts of the case and also taking note of the judgment given by this Court in *Sajal Saha* (supra) and in the peculiar facts and circumstances of the case, the present petition is disposed of by directing that the petitioner be subjected to a further medical examination at *Army Research and Referral Hospital, Delhi Cantt., New*



*Delhi.*

12. As admitted by the learned counsel for the petitioner herself, the result of such medical examination shall be final and binding for both the parties and as a necessary corollary, if the petitioner is again declared medically unfit, the said report shall become final and would not be amenable to any further challenge by the petitioner.

13. For the abovesaid purpose, the petitioner shall appear before the Medical Board to be constituted by Army Research and Referral Hospital, Delhi Cantt., New Delhi on 30.06.2025 at 11.00 A.M. The concerned Officer of the respondent may also remain present at the time of such medical examination along with the relevant documents of the petitioner.

14. The Medical Superintendent of Army Research and Referral Hospital, Delhi Cantt., New Delhi is, accordingly, requested to appoint Board of Doctors which should include Orthopedic Specialist and the opinion with respect to the fitness be given, keeping in mind the standards fixed for the recruitment in question. Registry is directed to send copy of this order to them.

15. The petition stands disposed of in aforesaid terms.

16. Pending applications, if any, stands disposed of.

17. A copy of this order be given *dasti* under the signatures of the Court Master.

**MANOJ JAIN, J**  
**(VACATION JUDGE)**

**RENU BHATNAGAR, J**  
**(VACATION JUDGE)**

**JUNE 25, 2025/PU/SS**