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

Date of decision: 09.07.2025

\+ W.P.(C) 876/2025 AND CM APPL. 4239/2025
SSC AND ANR.

.....Petitioner

Through: Ms. Rukhmini Bobde, Mr. Amlaan Kumar, Mr. Anmol Jagga, Mr. Vinayak Aren, Advs.

versus

RAJESH KUMAR .....Respondent

Through: Mr. R. P. Vijay, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the Order dated 20.08.2024 passed by the learned Central Administrative Tribunal, Principle Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 3246/2024, titled ***Rajesh Kumar v. Staff Selection Commission & Anr.*** (hereinafter referred to as, 'OA')**,** allowing the OA filed by the respondent herein with the following direction:

> *"**6.** In view of the decision taken by this Tribunal in various OAs, we cannot take a divergent view in the present matter. Accordingly, the OA is also disposed of with a direction to the competent authority/respondent to conduct a fresh medical examination of the applicant by way of constituting an appropriate medical board in any government hospital except the hospital*

which has already conducted the initial and the review medical examination. Appropriate orders with respect to the candidature of the applicant on the basis of the outcome of such an independent/fresh medical examination be passed thereafter under intimation to the applicant.

7. *The aforesaid directions shall be complied with within a period of twelve weeks from the date of receipt of a certified copy of this order. In the event the applicant is being declared medically fit, subject to his meeting other criteria, he shall be given appointment forthwith. The applicant, in such an eventuality, shall also be entitled to grant of all consequential benefits, however, strictly on notional basis. No costs."*

2. We must at the outset note that the learned Tribunal has allowed the above O.A. only on the basis of its earlier Order dated 14.05.2024 passed in O.A. 1857/2024, without appreciating the peculiar facts of the present case. We have repeatedly advised that the law in relation to medical examination of a candidate, though may be settled, must be applied in the context of the facts of each case. There cannot be "one shoe fit all" approach for all kind of situations in these matters.

3. As far as the facts of the present case are concerned, the respondent had applied for the post of Constable (Executive) Male pursuant to the recruitment process initiated by the Staff Selection Commission (hereinafter referred to as, 'SSC') for the said post in the Delhi Police Examination, 2023. Having successfully qualified the other stages of the examination, the respondent was called for the medical examination. The Detailed Medical Examination Board (hereinafter referred to as, 'DME'), *vide* report dated 21.01.2024,

declared the respondent unfit for appointment on the ground of presence of "*large varicocele left scrotum*". Aggrieved thereby, the respondent applied for a Review Medical Examination (hereinafter referred to as, 'RME'). The RME Board referred him for an Ultrasound, wherein, *vide* a report dated 23.01.2024, it was recorded that the respondent has *'left sided varicocele grade IV'*. Based on the said report, he was again declared unfit by the RME Board *vide* report dated 23/24.01.2024. Aggrieved by the same, the respondent approached the learned Tribunal.

4. As noted hereinabove, the learned Tribunal, by merely placing reliance on its earlier order, has allowed the OA and has directed the petitioner to carry out a fresh medical examination of the respondent.

5. The learned Counsel for the petitioners submits that the respondent, before being declared unfit for appointment, had been clinically examined through ultrasound, and the report of the ultrasound clearly indicated that the respondent suffers from the most severe form of '*Varicocele*', that is, Grade IV. It was on the basis of this report that the respondent was declared unfit for appointment. She further submits that the learned Tribunal, therefore, erred in interfering with the said finding of the Medical Boards.

6. On the other hand, the learned counsel for the respondent submits that the fallacy in the RME Board's decision is evident from the fact that the respondent has been offered an appointment to the post of Constable (Bugler) in the Central Reserve Police Force (hereinafter referred to as, 'CRPF'), *vide* a letter of appointment dated 23.12.2024, that to after having been subjected to DME during

selection process conducted by CRPF and being declared fit in the same. He submits that, therefore, the directions of the learned Tribunal to subject the respondent to a further medical examination cannot be faulted.

7. We have considered the submissions made by the learned counsel for the parties.

8. It is settled law that the reports for the Medical Examination Boards should not be lightly interfered with by the Court in exercise of its powers of judicial review. In ***Staff Selection Commission v. Aman Singh***, 2024 SCC OnLine Del 7600, a co-ordinate Bench of this Court has explained these principles in detail as under:

> *10.38 In our considered opinion, the following principles would apply:*
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> *(i) The principles that apply in the case of recruitment to disciplined Forces, involved with safety and security, internal and external, such as the Armed and Paramilitary Forces, or the Police, are distinct and different from those which apply to normal civilian recruitment. The standards of fitness, and the rigour of the examination to be conducted, are undoubtedly higher and stricter.*
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> *(ii) There is no absolute proscription against judicial review of, or of judicial interference with, decisions of Medical Boards or Review Medical Boards. In appropriate cases, the Court can interfere.*
>
> *(iii) The general principle is, however, undoubtedly one of circumspection. The Court is to remain mindful of the fact that it is not peopled either with persons having intricate medical knowledge, or were aware of the needs of the Force to which the concerned candidate seeks entry. There is an irrebuttable presumption that judges are*

not medical men or persons conversant with the intricacies of medicine, therapeutics or medical conditions. They must, therefore, defer to the decisions of the authorities in that regard, specifically of the Medical Boards which may have assessed the candidate. The function of the Court can only, therefore, be to examine whether the manner in which the candidate was assessed by the Medical Boards, and the conclusion which the Medical Boards have arrived, inspires confidence, or transgresses any established norm of law, procedure or fair play. If it does not, the Court cannot itself examine the material on record to come to a conclusion as to whether the candidate does, or does not, suffer from the concerned ailment, as that would amount to sitting in appeal over the decision of the Medical Boards, which is not permissible in law.

(iv) *The situations in which a Court can legitimately interfere with the final outcome of the examination of the candidate by the Medical Board or the Review Medical Board are limited, but well-defined. Some of these may be enumerated as under:*

(a) A breach of the prescribed procedure that is required to be followed during examination constitutes a legitimate ground for interference. If the examination of the candidate has not taken place in the manner in which the applicable Guidelines or prescribed procedure requires it to be undertaken, the examination, and its results, would ipso facto stand vitiated.79

(b) If there is a notable discrepancy between the findings of the DME and the RME, or the Appellate Medical Board, interference may be justified. In this, the Court has to be conscious of what constitutes a "discrepancy". A situation in which, for example, the DME finds the candidate to be suffering from three

medical conditions, whereas the RME, or the Appellate Medical Board, finds the candidate to be suffering only from one of the said three conditions, would not constitute a discrepancy, so long as the candidate is disqualified because of the presence of the condition concurrently found by the DME and the RME or the Appellate Medical Board. This is because, insofar as the existence of the said condition is concerned, there is concurrence and uniformity of opinion between the DME and the RME, or the Appellate Medical Board. In such a circumstance, the Court would ordinarily accept that the candidate suffered from the said condition. Thereafter, as the issue of whether the said condition is sufficient to justify exclusion of the candidate from the Force is not an aspect which would concern the Court, the candidate's petition would have to be rejected.

(c) If the condition is one which requires a specialist opinion, and there is no specialist on the Boards which have examined the candidate, a case for interference is made out. In this, however, the Court must be satisfied that the condition is one which requires examination by a specialist. One may differentiate, for example, the existence of a haemorrhoid or a skin lesion which is apparent to any doctor who sees the candidate, with an internal orthopaedic deformity, which may require radiographic examination and analysis, or an ophthalmological impairment. Where the existence of a medical condition which ordinarily would require a specialist for assessment is certified only by Medical Boards which do not include any such specialist, the Court would be justified in directing a fresh examination of the candidate by a

specialist, or a Board which includes a specialist. This would be all the more so if the candidate has himself contacted a specialist who has opined in his favour.

(d) Where the Medical Board, be it the DME or the RME or the Appellate Medical Board, itself refers the candidate to a specialist or to another hospital or doctor for opinion, even if the said opinion is not binding, the Medical Board is to provide reasons for disregarding the opinion and holding contrary to it. If, therefore, on the aspect of whether the candidate does, or does not, suffer from a particular ailment, the respondents themselves refer the candidate to another doctor or hospital, and the opinion of the said doctor or hospital is in the candidate's favour, then, if the Medical Board, without providing any reasons for not accepting the verdict of the said doctor or hospital, nonetheless disqualifies the candidate, a case for interference is made out.

(e) Similarly, if the Medical Board requisitions specialist investigations such as radiographic or ultrasonological tests, the results of the said tests cannot be ignored by the Medical Board. If it does so, a case for interference is made out.

(f) If there are applicable Guidelines, Rules or Regulations governing the manner in which Medical Examination of the candidate is required to be conducted, then, if the DME or the RME breaches the stipulated protocol, a clear case for interference is made out.

(v) Opinions of private, or even government, hospitals, obtained by the concerned candidate, cannot constitute a legitimate basis for referring the case for re-examination. At the same time, if the condition is such as require a specialist's view, and the Medical Board and Review

Medical Board do not include such specialists, then the Court may be justified in directing the candidate to be re-examined by a specialist or by a Medical Board which includes a specialist. In passing such a direction, the Court may legitimately place reliance on the opinion of such a specialist, even if privately obtained by the candidate. It is reiterated, however, that, if the Medical Board or the Review Medical Board consists of doctors who are sufficiently equipped and qualified to pronounce on the candidate's condition, then an outside medical opinion obtained by the candidate of his own volition, even if favourable to him and contrary to the findings of the DME or the RME, would not justify referring the candidate for a fresh medical examination.

(vi) *The aspect of "curability" assumes significance in many cases. Certain medical conditions may be curable. The Court has to be cautious in dealing with such cases. If the condition is itself specified, in the applicable Rules or Guidelines, as one which, by its very existence, renders the candidate unfit, the Court may discredit the aspect of curability. If there is no such stipulation, and the condition is curable with treatment, then, depending on the facts of the case, the Court may opine that the Review Medical Board ought to have given the candidate a chance to have his condition treated and cured. That cannot, however, be undertaken by the Court of its own volition, as a Court cannot hazard a medical opinion regarding curability, or the advisability of allowing the candidate a chance to cure the ailment. Such a decision can be taken only if there is authoritative medical opinion, from a source to which the respondents themselves have sought opinion or referred the candidate, that the condition is curable with treatment. In such a case, if there is no binding time frame*

within which the Review Medical Board is to pronounce its decision on the candidate's fitness, the Court may, in a given case, direct a fresh examination of the candidate after she, or he, has been afforded an opportunity to remedy her, or his, condition. It has to be remembered that the provision for a Review Medical Board is not envisaged as a chance for unfit candidates to make themselves fit, but only to verify the correctness of the decision of the initial Medical Board which assessed the candidate.

(vii) *The extent of judicial review has, at all times, to be restricted to the medical examination of the candidate concerned. The Court is completely proscribed even from observing, much less opining, that the medical disability from which the candidate may be suffering is not such as would interfere with the discharge, by her, or him, of her, or his, duties as a member of the concerned Force. The suitability of the candidates to function as a member of the Force, given the medical condition from which the candidate suffers, has to be entirely left to the members of the Force to assess the candidate, as they alone are aware of the nature of the work that the candidate, if appointed, would have to undertake, and the capacity of the candidates to undertake the said work. In other words, once the Court finds that the decision that the candidate concerned suffers from a particular ailment does not merit judicial interference, the matter must rest there. The Court cannot proceed one step further and examine whether the ailment is such as would render the candidate unfit for appointment as a member of the concerned Force."*

9. In the present case, the respondent was referred for an ultrasound by the RME board, and the ultrasound report clearly stated

that the respondent was suffering from '*left sided varicocele grade IV*'. Merely because the respondent has subsequently been found fit in the recruitment process for Constable (Bugler) in the CRPF, is not a sufficient ground to cast a doubt on the medical examination reports in the subject selection process in question. Such discrepancy could be either due to oversight by the other medical board or because the respondent has taken some corrective measures. This Court is not expected to speculate the reasons for the same.

10. As far as the present selection process is concerned, once it is found that the report of the RME was based on a clinical examination of the respondent, the learned Tribunal has clearly erred in interfering with the same. The selection process cannot be an unending one. There has to be finality attached to the report of the RME, except in cases of clear error or exceptional circumstances, as explained by this Court in ***Aman singh*** (supra). None of these parameters had been met by the respondent in the present case.

11. Accordingly, we find that the Impugned Order cannot be sustained. The same is, therefore, set aside.

12. The petition is allowed in the above terms.

13. There shall be no order as to costs.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 9, 2025
p/my/VS