



2025:DHC:8847-DB



\$~39

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

***Date of decision: 06.10.2025***

+ W.P.(C) 13162/2025 & CM APPL. 53924/2025

SHUBHAM AGARWAL

.....Petitioner

Through: Ms. Bhuvneshwari Pathak,  
Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Siddharatha Shankar Ray,  
CGSC with Ms. Khushi  
Ramuka, Adv.  
Mr. Ravinder Aggarwal, Mr.  
Manish Kumar Singh and Ms.  
Vasu Agarwal, Adv. for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE MADHU JAIN**

**NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed, challenging the Order dated 21.08.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 3093/2025, titled ***Subham Agarwal v. Pensions and Pensioners Welfare.***, directing as under:

*"Be that as it may. In the present matter the respondents have constitute a fresh medical board, though applicant did not appear. Let the applicant appear before*



*the competent Board on date specified along with the medical records. The medical Board shall take into consideration the medical opinion as rendered by the Appellate Medical Board.*

*In the meantime the applicant is allowed to join the training programme, however, the same shall be subject to the outcome of the present O.A.*

*We make it very clear, if the applicant does not appear before Medical Board, adverse inference shall be drawn against the applicant.*

*We also make it clear the issue of which report is to be taken into consideration for the purpose of final adjudication of the O.A. shall be decided once a detailed counter affidavit is filed by the respondents.*

*In the meantime, the respondents are directed to upload the report of the Appellate Medical Board in terms of para 7 of the order passed by the Hon'ble Apex Court as stipulated therein, preferable before 24.08.2025."*

2. To give a brief background of the facts in which the present petition arises, the petitioner had participated in the Civil Services Examination, 2024, under the category of Persons with Benchmark Disability (PwBD), claiming that he is suffering from a permanent hearing disability of more than 40%. The petitioner successfully cleared the examination and secured an All India Rank of 1001.
3. The petitioner was called upon to appear for a medical examination at the All India Institute of Medical Sciences on 27.05.2025, where he appeared, but was declared unfit for



appointment based on the Report dated 30.05.2025, wherein his disability was assessed as only 1%.

4. Aggrieved thereby, the petitioner preferred an appeal before the Appellate Disability Medical Board constituted at the Army Hospital (R&R), Delhi.

5. The petitioner was called upon to report at the Army Hospital (R&R), Delhi on 03.07.2025. The petitioner claims that he was subjected to a detailed medical examination from 03.07.2025 to 07.07.2025, and thereafter on 11.07.2025, however, the result thereof was not communicated to the petitioner. The petitioner also addressed an email dated 31.07.2025 to the respondent no.1, to disclose the result of his medical examination conducted by the Appellate Disability Medical Board, however, the same was not replied to. Instead, by an e-mail dated 05.08.2025 from the respondent no.1, the petitioner was directed to appear before Smt. Sucheta Kriplani Hospital (SSKH), Lady Hardinge Medical College, New Delhi for a third medical examination.

6. The petitioner, contending that there is no procedure by which he could have been subjected to yet another medical examination, approached the learned Tribunal by way of the above O.A.

7. As would be evident from the above-quoted direction of the learned Tribunal, the learned Tribunal while directing the petitioner to appear for the third medical examination, also directed the respondents to allow the petitioner to join the training program and to upload the report of the Appellate Medical Board.

8. Aggrieved by the direction to appear for the third medical



examination, the petitioner has preferred the present petition. We may herein itself note that the respondents have not challenged the impugned order.

9. The learned counsel for the petitioner submits that in terms of the Civil Service Examination Rules, the report of the Appellate Disability Medical Board is final and the candidate cannot be subjected to yet another medical examination at the whims and fancies of the respondents. She submits that the Appellate Disability Medical Examination Board consisted of experts and had opined that the petitioner suffers from 67.84% hearing disability. She submits that the petitioner, therefore, was entitled to appointment based on the said report, and cannot be subjected to yet another medical examination.

10. She further submits that the Order dated 28.07.2025, passed by the Supreme Court in Special Leave to Appeal (Civil) No.17995/2025, titled ***Department of Personnel and Training v. Kore Nihal Pramod***, as relied upon by the respondents and the learned Tribunal, has no application to the facts of the present case, in as much as, therein, the Appellate Board had declared the candidate unfit for appointment, however, in a medical examination ordered by this Court, the candidate had been declared to be meeting the benchmark. The Supreme Court, however, found glaring inconsistencies and disparity between the Reports of the Appellate Medical Board and the hospital to which the candidate had been referred to by this Court, and it was in those peculiar facts that the Supreme Court had felt it appropriate to refer the candidate to yet another medical examination. She submits that in the present case, the report of the Appellate Medical Board



being final, the petitioner cannot be subjected to yet another medical examination by the respondents themselves, in contravention of their own Rules and the Advertisement.

11. On the other hand, the learned counsel for the respondent no.1 submits that there are inconsistency and variations in the Report of the experts at AIIMS, which conducted the initial medical examination of the petitioner and assessed his disability as only 1%, and of the Appellate Disability Medical Board constituted at the Army Hospital (R&R), Delhi, which assessed the disability of the petitioner as 67.84%. He submits that it is for this reason that the respondents decided to subject the petitioner to another medical examination.

12. We have considered the submissions made by the learned counsels for the parties.

13. In the present case, while we do appreciate that the finding of the Appellate Medical Board is to be considered as final and, in accordance with the Rules, cannot be made subject to a challenge, however, given the peculiar facts, wherein the initial medical examination board of the petitioner had assessed the petitioner to be suffering from only 1% hearing disability, whereas the Appeal Medical Board has found him to be suffering from a hearing disability of 67.84%, in our view, no error can be found in the learned Tribunal directing the petitioner to appear for another medical examination. It is not a matter of just difference in medical opinion, but a difference of opinion of a high magnitude. We also take note of the fact that the medical certificates relied upon by the petitioner, had also assessed the disability of the petitioner as 40% and 44%.



14. In similar facts, the Supreme Court in *Kore Nihal Pramod* (supra), had directed the constitution of an Expert Medical Board consisting of members to be nominated by the Director of AIIMS, Director General of the Central Government Health Scheme, and the Chief of the Army Research and Referral Hospital, New Delhi. We are inclined to adopt the same process in the present case.

15. The third examination of the petitioner shall be conducted by a Board of doctors having specialisation in the field of assessing the hearing disability. One member of the Board would be nominated by the Director of AIIMS, one by the Director General of the CGHS, and the third by Chief of the Army Research and Referral Hospital, New Delhi. While nominating the doctors to the Board, we request the Director/DG/Chief of the respective hospitals to not nominate the doctors who have already examined the petitioner in the earlier rounds/medical examinations. We further request the Director/DG/Chief to constitute the Medical Board within a period of two weeks from today and for the Medical Board to give its final opinion within a period of one week of the examination of the petitioner.

16. The respondents shall coordinate with the three hospitals/organizations for ensuring the timely constitution of the Medical Board and for giving due notice to the petitioner for appearing before the Medical Board so constituted.

17. The report of the Medical Board so constituted shall be final, and shall determine the eligibility of the petitioner.

18. At this stage, we may also note the grievance of the petitioner



that the respondents, in violation of the Order dated 21.08.2025 of the learned Tribunal, have not allowed the petitioner to join the training program and have also not uploaded the report of the Appellate Medical Board.

19. The learned counsel for the respondent no.1 submits that the respondent no.1 has filed a Review Application seeking review of the said order, which is pending before the learned Tribunal.

20. On the other hand, the learned counsel for the petitioner submits that, in fact, Review Application is yet to be listed.

21. We make it clear that by our Order dated 28.08.2025, we had only stayed the direction of the learned Tribunal directing the petitioner to appear for the third medical examination. The remaining directions of the learned Tribunal were to be complied with by the respondents. We would not make any further comment on the same. This aspect shall, therefore, be considered by the learned Tribunal in appropriate proceedings.

22. The petition is disposed of in the above terms.

23. There shall be no order as to costs.

24. *Dasti.*

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**OCTOBER 6, 2025/prg/P/SJ**