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

\+ W.P.(C) 8456/2025, CM APPL. 36780/2025

SHLOK SACHIN .....Petitioner

Through: Mr. M.V. Mukunda and Ms. Shambhavi Kala, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Abhishek Saket, Sr. PC with Mr. Manish Madhukar, Ms. Aparna Tripathi and Mr. Abhigyan, Advs. for UOI
Mr. Ravinder Agarwal, Mr. Manish Kumar Singh and Mr. Vasu Agarwal, Advs. for UPSC

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% 08.07.2025

C. HARI SHANKAR, J.

The *lis*

1. The petitioner is an aspirant to enter the portals of the National Defence Academy[1]. By a communication dated 18 March 2025, he has been informed that, as he was suffering from haemoglobinopathy, he could not be admitted. This decision was stated, by the respondents, to have been taken in accordance with Office Order dated

[1] "NDA" hereinafter

5 September 2017 issued by the Ministry of Defence[2], which also constitutes Para 24(d) of the "Guidelines with regard to Physical and Medical Standards" applicable in this regard, and reads:

> "All candidates with evidence of hereditary haemolyticanaemias (due to red cell membrane defect or due to red cell enzyme deficiencies) and haemoglobinopathies (Sickle cell disease, Beta Thalassaemia: Major, Intermedia, Minor, Trait and Alpha Thalassaemia etc.) will be considered unfit for service."

2. Aggrieved by the rejection of his candidature for enrolment in the NDA, the petitioner has instituted the present writ petition before this Court, praying as under:

> "In light of the facts and grounds mentioned herein above, it is respectfully prayed that this Hon'ble Court may be pleased to:
>
> (a) Issue a writ of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution quashing and setting aside of impugned Letters dated 18.03.2025 and 22.05.2025 issued by the Respondent No. 3;
>
> (b) Issue a writ of Mandamus directing the Respondents to admit the Petitioner into the National Defence Academy for the session commencing on 02.07.2025;
>
> (c) Issue a writ of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution reading down Paragraph 24(d), Physical and Medical Standards prescribed by the Air Force as well as Para 172, Recruitment Notification dated 15.05.2024, Para 3.13.4 of IAP 4303 (5th Edition) and Para 3.8.3 Common Medical Standards for Commissioning/Recruitment/Cadet Entry to Tri-Services, to the extent of the inclusion of 'HbE Trait' which is asymptomatic and harmless under 'Haemoglobinopathies (Sickle Cell Disease, Beta Thalassaemia: Major, Minor, Trait and Alpha Thalassaemia, etc)' is violative of Articles 14 and 16 of the Constitution of India;

[2] "MOD" hereinafter

(d) Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

Proceedings before this Court

3. While issuing notice in this writ petition on 18 June 2025, this Court noted the issue arising for consideration as being whether the petitioner's condition i.e. HbE Trait would be covered by para 24(d) of the Guidelines. The respondents were, therefore, directed to file a short affidavit, explaining why the petitioner had been declared unfit. Additionally, a medical board was directed to be constituted by the All India Institute of Medical Sciences[3] to give an expert opinion regarding the candidature of the petitioner in the light of para 24(d) of the Guidelines.

4. As directed by this Court, a short affidavit dated 30 June 2025 as been filed by the respondents, seeking to justify the decision to declare the petitioner as unfit for recruitment to the NDA. The petitioner has also filed a rejoinder to the said affidavit. The report of the AIIMS has also been obtained.

5. The following paras, from the short affidavit filed by the respondents, and from the rejoinder thereto, as filed by the petitioner, merit reproduction *in extenso*:

From the Respondents' affidavit

[3] AIIMS

"9. The report submitted by AIIMS, New Delhi is in line with the diagnosis of Haemoglobinopathy detected during the initial medicals at AFCME and HbE Trait during Appeal Medical Board at BHDC. It is evident from all the reports available (including from AIIMS) that the candidate has a disorder of haemoglobin gene called 'Heterozygous HbE Trait, a type of inherited haemoglobinopathy'. This occurs due to a mutation in HBB gene that substitutes lysine for glutamic acid at amino acid 27 of the beta globin chain. This leads to a reduced expression (a beta thalassaemia phenotype) of beta globin variant that is mildly unstable and susceptible to oxidative damage. The HbE variant beta chain is thus produced at a reduced rate relative to alpha chain and therefore functions as a thalassaemia variant.

10. The HbE trait (heterozygous/carrier state), individuals may have mild microcytosis with mild anaemia (11-13 gm%) sometimes. In routine circumstances no treatment/medical intervention is required as it is an inherited genetic disorder of mild clinical presentation with or without anaemia. HbE has a weakened alpha/beta interface, leading to some instability during conditions of increased oxidant states. The abnormal variant of HbE in heterozygotes is approximately 30%. The pathophysiology and clinical history may be variable and are related to ineffective erythropoiesis, apoptosis, oxidative damage and shortened red cell survival. In febrile patients, it may account for accelerated haemolysis. *In the Armed Forces set up, only India and other 2 neighboring countries have a battlefield at HAA (> 9000 ft). The soldiers of any service may have to be deployed to these regions for a prolonged duration of 18 to 36 months, where they will get exposed of low level of oxygen and effects of hypoxia. In addition, extreme physical stress/febrile illness may lead to aggravation of haemolysis and resultant anaemia. This will lead to compromise of operational and combat efficiency of our troops, especially in times of augmentation or war scenario, where all the soldiers with haemoglobinopathies will have to be kept in sheltered appointments*."

(Emphasis supplied)

From the petitioner's rejoinder

"2. The following legal submissions are being made by the Petitioner in support of his case:

a. The HbE Heterozygous Trait is harmless, asymptomatic and cannot be a ground of 'unfitness' as

a Hemoglobinopathy under 'Etc' in the Impugned Paragraph 24(d);

b. The 'Short" Affidavit of the Respondents is without scientific basis, and self-serving. It cannot be relied upon by this Hon'ble Court without due substantiation.

c. The inclusion of HbE Heterozygous Trait is indirect discrimination on the basis of race, prohibited by Article 16(1) of the Constitution.

HbE Heterozygous Trait Completely Harmless

3. The impugned clause, i.e., Paragraph 24(d), reads as under:

> "All candidates with evidence of hereditary haemolyticanaemias (due to red cell membrane defect or due to red cell enzyme deficiencies) and **haemoglobinopathies** (Sickle cell disease, Beta Thalassaemia: Major, Intermedia, Minor, Trait and Alpha Thalassaemia **etc**.) will be considered unfit for service."

While haemoglobinopathies are a broad term, the only dangerous conditions are mentioned in the Clause itself, and therefore, as per the principle of 'ejusdem generis', HbE Trait (Heterozygous) cannot be included in the broad term. For clarity, 'ejusdem generis' means "of the same kind or nature" and is presumed to apply in all cases. In ***Maharashtra University of Health Sciences v Satchikitsa Prasarak Mandal***[4], it was held:

> "27. The Latin expression "ejusdem generis" which means "of the same kind or nature" is a principle of construction, meaning thereby when general words in a statutory text are flanked by restricted words, the meaning of the general words are taken to be restricted by implication with the meaning of the restricted words. This is a principle which arises '"from the linguistic implication by which words having literally a wide meaning (when taken in isolation) are treated as reduced in scope by the verbal context". It may be regarded as an instance of ellipsis, or reliance on implication. **This principle is presumed to apply unless there is some contrary indication** [see Glanville Williams, The Origins and Logical Implications of the Ejusdem Generis Rule, 7 Conv (NS) 119]."

[4] **(2010) 3 SCC 786**

4. Haemoglobinopathies are widely defined as 'inherited disorders of red blood cells'. However, the definition, as provided above, includes only those haemoglobinopathies which cause severe anemia, i.e., Sickle Cell Disease, Thalassaemia. The dangers of these conditions are well documented in the National Health Mission Guidelines for Prevention and Control of Hemoglobinopathies in India (Annexure P-13 at p.556 — 557).

5. **Sickle Cell Disease**: The disease causes chronic anaemia and 'frequent and recurrent painful vasuocclusive crises'. It affects various organs including lungs, heart, kidney, brain, skin, bones, eyes etc. (See: 'The Red Blood Cell-Inflammation Vicious Circle in Sickle Cell Disease' by Elie Nader et al published in FRONT IMMUNOL (MARCH 2020)). The disease is thus severe in nature, and is dangerous for human survival. This is similar to Thalassemia.

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6. **Alpha and Beta Thalassemia**: Alpha and Beta Thalassemia, too, similarly cause anemia and microcytosis. Research has shown that even these cause anemia and microcytosis. It is for this reason that they are specifically included in the definition of 'hemoglobinopathies' under the Impugned Clause. This is supported by scientific evidence.

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7. **HbE Trait**: The HbE Trait, and more specifically the HbE Heterozygous Trait, has no known consequences or disorders associated with it. In fact, the National Health Mission specifically states that people carrying only one gene is only a 'carrier' and they do not suffer from any disease but only carry the abnormal gene and transmit it to the next generation. It states:

> "Persons carrying only one of these genes are called 'carriers' as they do not suffer from any disease but carry the abnormal gene and transmit it to the next generation. Carriers cannot be recognized clinically but only by performing special blood tests. Where both mother and father are 'carriers', there is a chance that their children may inherit the abnormal gene from both parents and thus suffer from a severe thalassemia syndrome or a Sickle Cell syndrome (see figure 1) or may be normal without any abnormal gene or carriers like their parents."

8. The HbE Trait (Heterozygous), even according to the Government of India, does not cause any disease and is not a

condition like Thalasammeia or Sickle Cell Disease, and thus cannot be included in 'etc' thereunder. This follows the principle of ejusdem generis as stated above.

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10. The medical reports of the Petitioner herein clearly show that neither is there any microcytosis nor is there any anemia in so far as the Petitioner is concerned. In fact, the Petitioner is fully physical fit in all respects and has been found so by the Airforce hospital.

11. Two further aspects may also be considered:

a. This Hon'ble Court by Order dated 18.06.2025 directed the AIIMS to submit a report on the 'candidature of the Petitioner, considering the ineligibility clause'. The AIIMS Report stated that 'no medical intervention' is required for the 'carrier state'. This supports the hypothesis that the Petitioner's condition is completely benign and cannot be included with the other conditions mentioned under the definition of 'hemoglobinopathies' under the Impugned Clause.

b. Across the world, the HbE Trait (Heterozygous) is given a waiver, subject to all the other physical conditions being met. This is the case also for astronauts sent to the International Space Station as well as for the US Navy. There is no reason why this standard cannot apply to India as well."

6. The report of the AIIMS, to whom the case of the petitioner was referred by this Court, reads thus:

"The petitioner Mr Shlok Sachin was attended Haematology OPD (5th floor), New RAK OPD, AIIMS New Delhi on 20.06.2025 (Friday) at 12:00 noon and his medical examination was done and blood investigations were done. The meeting of the medical board was held on Saturday, 21.06.2025 at 12:00 noon in Consultation Room No. 13, M.S. Office Wing, Ground floor, AIIMS, New Delhi. All members of the medical board were present in the medical board is of the opinion that Mr Shlok Sachin is diagnosed as heterozygous E Trait, a type of inherited haemoglobinopathy, based on AIIMS New Delhi and outside HPLC reports. He does not require any medical intervention for this carrier state."

7. We have heard Mr. M.V. Mukunda for the petitioner and Mr. Abhishek Saket, learned Senior Panel Counsel for the respondents, at length.

8. We proceed to recount the facts.

Facts

9. Applications from candidates, between the ages of 16 ½ and 19 ½, who desired to participate in the examination for admission to the 154th Course for the Army, Navy and Air Force wings of the NDA, and the 116th Indian Naval Academy Course, slated to commence on 2 July 2025, were invited by Examination Notice dated 15 May 2024 issued by the Union Public Service Commission[5]. Applicants were required to ensure that they fulfil the eligibility criteria stipulated in the Examination Notice. Appendix IV to the Examination Notice set out the physical standards required to be met by the candidates.

10. The Guidelines which let out the "common medical standards for commissioning/recruitment for Cadet entry" standard promulgated by Office Order dated 5 September 2017 issued by the Ministry of Defence[6], and contain the following Clause 3.8.3:

> "All candidates with evidence of hereditary haemolytic anaemias (due to red cell membrane defect or due to red cell enzyme deficiencies) and haemoglobinopathies (Sickle cell disease, Beta Thalassaemia: Major, Intermedia, Minor, Trait and Alpha

[5] "UPSC" hereinafter
[6] "MOD" hereinafter

Thalassaemia etc.) are be considered unfit for service."

We may note that there was no serious debate, at the Bar, regarding the applicability of this Clause. In fact, prayer (c) in the writ petition seeks that this Clause be read down as not applicable to candidates who have the HbE trait, such as the petitioner.

11. The petitioner successfully cleared the written examination forming part of the selection process for admission to the NDA following the Examination Notice dated 15 May 2024. He also cleared the interview and the Computerised Pilot Selection System, also forming part of the selection process. He was recommended for medical examination, scheduled on 12 March 2025, which he underwent.

12. On 18 March 2025, the petitioner was declared unfit for admission to the NDA, by the impugned communication, as he was suffering from haemoglobinopathy. The petitioner complains that haemoglobinopathies embrace a broad category of haemoglobin-related deficiencies, and the notice dated 18 March 2025 did not specify the nature of the haemoglobinopathy which afflicted the petitioner. He submits that the disabling Clause 3.8.3 of the Guidelines, extracted *supra*, does not encompass all varieties and categories of haemoglobinopathies.

13. *Inter alia* on these grounds, the petitioner appealed, against the decision to declare him unfit for admission to the NDA, to the

Appellate Medical Board[7]. He appeared before the AMB on 4 April 2025. On the advice of the AMB, the petitioner also reported at the Army Hospital Research and Referral, for the opinion of a haematologist.

14. On 11 April 2025, the Final Merit List of the candidates who had participated in the selection for admission to the NDA was released by the UPSC. The petitioner's All India Rank was 266.

15. However, on 25 April 2025, the petitioner was verbally informed that he had been declared unfit for admission to the NDA. The petitioner's mother, thereupon, addressed an email to the Director General of the Armed Forces Medical Services, stating that the petitioner was only carrying the HbE trait, which was not specifically notified as a disqualification for admission to the NDA. On 22 May 2025, however, another letter was received by the petitioner, in which he was informed that he had been declared unfit for enrolment to the Indian Air Force as well as the Tri Services, on account of his suffering from "Haemoglobinopathy (HbE trait)".

16. Aggrieved thereby, the petitioner has approached this Court.

Rival Contentions

Submissions of the petitioner

17. The petitioner's main contention, commendably articulated

[7] "AMB" hereinafter

before us by Mr. Mukunda, is that the HbE trait is not specifically stipulated as a disqualification in Clause 3.8.3 of the Guidelines. Mr. Mukunda submits that there are only three categories of haemoglobinopathies which have been identified as disqualifying the candidate from admission to the NDA. They are (i) sickle cell disease, (ii) Beta thalassaemia which may be either (a) major, (b) intermedia, (c) minor or (d) trait and (iii) Alpha thalassaemia. The colon (":") after "Beta Thalassaemia" in Clause 3.8.3, he submits, indicates that the categories which follow thereafter, i.e. major, intermedia, minor and trait are all categories of Beta thalassaemia. HbE, he submits, is not at a trait of Beta thalassaemia, though he acknowledges that it falls within the broad category of haemoglobinopathies. Inasmuch as the HbE trait is not stipulated as a disqualification in Clause 3.8.3, Mr. Mukunda submits that the respondents erred in regarding him as unfit for induction into the NDA.

18. Reliance has been placed, by Mr. Mukunda, on the Guidelines on Haemoglobinopathies issued by the National Health Mission[8], Government of India, which states:

> "Persons carrying only one of these genes are called 'carriers' as they do not suffer from any disease but carry the abnormal gene and transmitted to the next generation. Carriers cannot be recognised clinically but only by performing special blood tests. Where both mother and father are 'carriers', there is a chance that the children may inherit the abnormal gene from both parents and thus suffer from a severe thalassaemia syndrome or a Sickle Cell Syndrome or maybe normal without any abnormal gene or carriers like their parents."

19. Mr. Mukunda also relies on two case reports, titled "Beta

[8] "NHM" hereinafter

thalassaemia trait – fitness for fighter flying", authored by Wg Cdr P. Kharbanda, Wg Cdr S. Modak, Wg Cdr P.S. Singh and Gp Capt R.K. Garg, and invites our attention to the Abstract preceding the Report, which reads:

> "Two cases of highly experienced fighter pilots in whom thalassaemia trait was detected, are reported. During routine medical evaluation they were detected to have anaemia, which was followed by haemoglobin electrophoresis study, and the diagnosis of thalassaemia trait was clinched. They were subjected to aero medical evaluation at Institute of Aerospace Medicine (IAM) by exposure to simulated flight conditions of hypoxia in an alternate load chamber. They were also evaluated for the tolerance of acceleration stress in the human centrifuge. No red cell damage was demonstrated during repeated and prolonged exposure to a multitude of 4570 m (15,000 ft). Clinical hypoxia induced by disconnecting oxygen supply at 9140 m (30,000 ft) also did not produce any evidence of untoward symptoms/signs or red cell damage. The pilots were assessed to be fit for full flying duties on fighters. It is well known that thalassaemia is produce a low-grade anaemia that can cause problems at high altitude, however no such effects could be demonstrated in these two cases. Thalassaemia cases are very rare in modern aviation, hence a reconsideration and introduction of a new policy is stressed."

20. Referring us once again to the NHM Guidelines, Mr Mukunda cites the following paragraph, under the head "Burden of Haemoglobinopathies in India":

> "In India, β-Thalassaemia is prevalent across the country with an average frequency of carriers being 3-4%. A higher frequency has been observed in certain communities such as Sindhis, Punjabis, Gujaratis, Bengalis, Mahars, Kolis, Saraswats, Lohanas and Gaurs. HbS is highly prevalent in the tribal populations of Southern, Central and Western states reaching as high as 48% in some communities. HbE is common in the North Eastern states, and has a carrier frequency as high as 50%, in some areas. It is found in lower frequencies in the Eastern states of West Bengal, Bihar and Uttar Pradesh, while HbD is present in about 2% of people in Punjab."

If, therefore, persons possessing the HbE trait are to be disqualified

from admission to the NDA, Mr. Mukunda submits that it would result in exclusion, from the NDA and, consequently, from the Indian Armed Forces, of 48% of the tribal population in some regions and 50% of the population in North East India in other areas. This would result in skewed representation in the Armed Forces and would derogate from the principle of inclusivity and proportionate representation of persons from all over the country.

21. In connection with this submission, Mr. Mukunda contends that, inasmuch as carrying of the HbE trait is not specifically stipulated as a disqualification from entry into the NDA in Clause 3.8.3 of the Guidelines, persons such as the petitioner who carry the said trait can be disqualified only by according, to the terminal "etc" in the Clause, an unduly wide interpretation, so as to encompass all haemoglobinopathies. Once the Clause specifically identifies certain haemoglobinopathies as rendering the candidate unfit for induction into the NDA, it would be unfair and unjust to include, in the Clause, all possible forms of haemoglobinopathy, even though they do not find mentioned therein. The HbE trait, even if it falls within the broad parentheses of "haemoglobinopathies", finds no mention in Clause 3.8.3 and cannot be artificially included in the Clause by relying on the terminal "etc".

22. Mr. Mukunda also places reliance on the following paragraphs from the judgment of the Supreme Court in ***Lt. Col. Nitisha v UOI***[9]:

> "**F.6. Evolving an analytical framework for indirect discrimination in India**

[9] **(2021) 15 SCC 125**

70. A study of the above cases and scholarly works gives rise to the following key learnings. *First*, the doctrine of indirect discrimination is founded on the compelling insight that discrimination can often be a function, not of conscious design or malicious intent, but unconscious/implicit biases or an inability to recognise how existing structures/institutions, and ways of doing things, have the consequence of freezing an unjust *status quo*. In order to achieve substantive equality prescribed under the Constitution, indirect discrimination, even sans discriminatory intent, must be prohibited.

71. *Second*, and as a related point, the distinction between direct and indirect discrimination can broadly be drawn on the basis of the former being predicated on intent, while the latter is based on effect (US, South Africa, Canada). Alternatively, it can be based on the fact that the former cannot be justified, while the latter can (UK). We are of the considered view that the intention effects distinction is a sound jurisprudential basis on which to distinguish direct from indirect discrimination. This is for the reason that the most compelling feature of indirect discrimination, in our view, is the fact that it prohibits conduct, which though not intended to be discriminatory, has that effect. As the Canadian Supreme Court put it in ***Ontario Human Rights Commission v Simpsons Sears Ltd***.[10], requiring proof of intention to establish discrimination puts an "insuperable barrier in the way of a complainant seeking a remedy". It is this barrier that a robust conception of indirect discrimination can enable us to counteract.

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74. *Fifth* and finally, while assessing the justifiability of measures that are alleged to have the effect of indirect discrimination, the Court needs to return a finding on whether the narrow provision, criteria or practice is necessary for successful job performance. In this regard, some amount of deference to the employer/defendant's view is warranted. Equally, the Court must resist the temptation to accept generalisations by defendants under the garb of deference and must closely scrutinise the proffered justification. Further, the Court must also examine if it is possible to substitute the measures with less discriminatory alternatives. Only by exercising such close scrutiny and exhibiting attentiveness to the possibility of alternatives can a court ensure that the full potential of the doctrine of indirect discrimination is realised and not lost in its application. [Sandra Fredman, *Discrimination Law* at p. 194]"

[10] **(1985) 2 SCR 536**

23. Mr. Mukunda finally submits that, as the only apprehension expressed by the respondents is that, owing to the HbE trait carried by the petitioner, he could, when placed in certain extreme situations, such as areas in high altitudes, develop anaemia, the respondents ought to adopt "less discriminatory alternatives", as required by para 74 of ***Nishita***, by posting the petitioner in areas where he would not be susceptible to anaemia. The mere likelihood of the petitioner becoming anaemic, which would also be only on rare occasions, could not be a ground to altogether reject him from admission to the NDA. This would amount to "indirect discrimination", within the meaning of the expression as defined by the Supreme Court in ***Nishita***.

Submissions of the respondents

24. Learned Counsel for the respondents, on the other hand, reiterate the stand taken in the short affidavit dated 30 June 2025.

25. We have also heard, in this context, Dr. Arshit Khurana, Group Capt in the IAF, who is also a haematologist and a Senior Adviser (Medicine). He has sought to explain why persons having haemoglobinopathies cannot be recruited to the Armed Forces. He submits that while a person bearing the HbE trait, from which the petitioner suffers may not be a candidate for immediate medical treatment, the very possession of such a trait may render him susceptible to suffer from anaemia and such other disorders at later stages. This, by itself, he submits, is a disabling factor when it comes to recruitment of candidates to the Armed Forces.

Analysis

26. Law, when properly administered, may be therapeutic in its effect, but we are not doctors. It is practically axiomatic that, in matters involving medicine and medical opinions, Courts cannot substitute the subjective views of those who are trained in the field with their own. Nor is it desirable for the Court to enter into any detailed medical analysis, to examine whether a policy decision of executive, on a medical issue, is, or is not, correct.

27. Even more circumscribed would our jurisdiction be, where we are dealing with admission to the Armed Forces. There can be no compromise in such cases. If the executive is of the view that persons suffering from a particular medical condition are not suitable for recruitment to the Armed Forces, Courts would be seriously overstepping their jurisdiction if they were to hold otherwise.

28. While we would love to enter into a detailed medical discussion on haemoglobinopathies and their various indicia and ingredients, we do not think that, in exercise of our constitutional jurisdiction under Article 226, it would either be apposite or appropriate for us to do so. Expressed more topically, if the executive, in the instructions issued by it, or the Rules framed by it, regards a particular medical condition, from which a candidate may suffer, as disentitling the candidates are for admission into the Armed Forces, we would be the last to interfere with that decision.

29. Entry into the NDA, and a chance to serve the nation, is an

issue of great pride and honour. We empathise with the petitioner when he feels that, without due justification, he is being effectively banned from joining the Armed Forces. However, the respondents contention is that they have acted in accordance with Clause 3.8.3 of the Guidelines.

30. We are unable to subscribe to Mr. Mukunda's interpretation of Clause 3.8.3. To our mind, any candidate, who has evidence of hereditary haemolytic anaemias or haemoglobinopathies is disentitled to recruitment or admission into the NDA. The words "Sickle cell disease, Beta thalassaemia: Major, Intermedia, Minor, Trait and Alpha Thalassaemia etc.," follow the word "haemoglobinopathies", in parentheses. They, therefore, can only be read as explaining what haemoglobinopathies are, and not as restricting haemoglobinopathies to certain specific categories. When a complex expression is followed by words in parenthesis, then, etymologically, the words in parentheses are meant to convey the meaning of the preceding expression. They are not words of restriction or limitation.

31. This impression, in the present case, is fortified by the use of the terminal "etc", following the words in parenthesis. The word "etc", as used in Clause 3.8.3, to our view, is consciously used so as not to limit the scope of the word "haemoglobinopathies" to the specific categories of haemoglobinopathies earlier referred to. There is no dispute about the fact that the HbE trait is also a category of haemoglobinopathy. Mr. Mukunda's contention is that it is merely a dormant trait, which does not manifest itself in the form of any ailment or illness which could affect the functioning of the carrier,

carrying the trait. Ergo, he submits, the mere fact that a candidate is a carrier of the HbE trait is insufficient to descended him to admission to the NDA.

32. In fact, submits Mr. Mukunda, the *ejusdem generis* principle would apply in such a case. The word "etc", as contained in the parenthesis following "haemoglobinopathies" in Clause 3.8.3 has to be read *ejusdem generis* to the expressions that precede it. The ailments preceding the terminal "etc" in the parenthesis, submits Mr. Mukunda, are the "only dangerous conditions" within the broad scope of "haemoglobinopathies". Only similar dangerous conditions can, therefore, be brought within the ambit of the terminal "etc".

33. No material has been brought on record, by Mr. Mukunda, to support his contention that sickle cell anaemia, beta thalassaemia, whether major, intermedia, minor or trait and alpha thalassaemia are the only "dangerous" haemoglobinopathies. In any case, it is not our job to enter into this area, as we can hardly hold that persons suffering from "dangerous" ailments *alone* should be excluded from admission to the NDA. In the absence of any material to substantiate his contention that sickle cell disease, major, intermedia, minor and trait beta thalassaemia and alpha thalassaemia are the only "dangerous" haemoglobinopathies, the *ejusdem generis* principle can also, quite obviously, not apply.

34. In any event, if the petitioner's submission that the specific conditions enumerated in the parenthesis following "haemoglobinopathies" in Clause 3.8.3 are the only dangerous

haemoglobinopathies, is to be accepted, it would mean that no other haemoglobinopathy would, if one were to apply the *ejusdem generis* principle, remain to be included within the scope of "etc". This would render the terminal "etc" meaningless. The submission is obviously, therefore, unacceptable.

35. It is conceded, in para 4 of the petitioner's rejoinder, that "haemoglobinopathies are widely defined as 'inherited *disorders* of red blood cells'". It is further asserted that "the *dangers of these conditions*" are documented in the NHM Guidelines. In fact the Abstract of the paper "Beta thalassaemia trait – fitness for fighter flying", as authored by P. Kharbanda *et al*, specifically observes that it was "well-known that thalassaemia produces a low grade anaemia that can cause problems at high altitudes".

36. It is not, therefore, as though the HbE trait is normal. It may be true that persons who possess the trait are generally asymptomatic, and remain asymptomatic unless they are placed in peculiar or extreme situations in which anaemia can result and, therefore, that they do not require immediate treatment if presented before a clinician. At the same time, Mr. Mukunda does not dispute the respondents' contention that, in extreme conditions, such as placement in high altitudes, a person carrying the HbE trait may become anaemic. In fact, this reality stands recognised even in the article of P. Kharbanda *et al*.

37. We have also attempted to ascertain, from authoritative medical literature, the scope and ambit of the expression

"haemoglobinopathy". The following definitions appear relevant:

Dorland's Illustrated Medical Dictionary, 31st Edition

"**Haemoglobinopathy** – 1. Any inherited disorder caused by abnormalities of haemoglobin, resulting in conditions such as sickle cell anaemia, haemolytic anaemia, or thalassaemia. 2. Sometimes more specifically, a haemoglobin disorder involving a variation or variations of a globin chain such as changes or substitutions in the amino acid sequences, or moving of a chain from its usual place in the molecule. (In this case haemoglobinopathies are distinguished from thalassaemias, which involve reduced or absent synthesis of normal polypeptide chains.) When the site of an aberration is known, the abnormality of the peptide chain, the number of the altered amino acid, and the nature of the replacement are indicated. For example, haemoglobin S is expressed as $\alpha_2{}^{A}\beta_2{}^{S,}$ or $\alpha_2{}^{A}\beta_2{}^{6\ valine}$, and haemoglobin G $_{Philadelphia}$ is expressed as $\alpha_2{}^{G}\beta_2{}^{A}$, or $\alpha_2{}^{6\ lysine}\beta_2{}^{A}$. If more than one haemoglobin is present, the phenotype is designated by listing them in order of decreasing concentrations; for example, the phenotype for sickle cell trait is expressed as AS, for sickle cell anaemia as SS, and for sickle cell – haemoglobin C disease as SC."

Oxford's Concise Colour Medical Dictionary

"**haemoglobinopathy** *n.* any of a group of inherited diseases, such as thalassaemia and sickle-cell disease, in which there is an abnormality in the production of haemoglobin.

Butterworth's Medical Dictionary 2nd edition

"**haemoglobinopathy.** A disease of the blood associated with the presence of an abnormal haemoglobin in the red blood cells."

38. We do not deem it necessary to discuss the issue any further. It is not possible, in exercise of our jurisdiction under Article 226 of the Constitution of India, to grant relief to the petitioner. The reason is obvious. We cannot enter into the labyrinth of the extent to which carrying of the HbE trait could affect a member of the Armed Forces. There is no dispute about the fact that possession of the HbE trait, howsoever mild its clinical manifestations may be, is not normal. It is

variously described as a "disorder", an "abnormality" and even as a "disease". It is also indisputable that possession of the HbE trait, even if it does not regularly result in clinical manifestations, render the carrier susceptible to anaemia when placed in particular conditions or situations, such as functioning at high altitudes. A combatised member of the Armed Forces may conceivably be required to function at high altitudes in particular situations – as we have, only recently, uncomfortably had occasion to learn. Though Mr. Mukunda sought to contend that, as the possession of the HbE trait by the petitioner rendered him susceptible to anaemic dispositions only in peculiar situations such as having to work at high altitudes, that would not constitute a justifiable reason to completely foreclose the opportunity, to the petitioner, to be inducted in the NDA, we regret our inability to accept the submission. We have to be conscious of the fact that we are dealing with recruitment to the Armed Forces. The recruitment is not merely for one summer. A cadet in the Armed Forces, once recruited, has before him a lifetime of service, during which period, given the exigencies of the situation, he may have to discharge his duties in conditions which may be formidably challenging. If, in such conditions, the HbE trait, carried by such a cadet, would render him susceptible to anaemia, which would, with it, invite all its inevitable sequelae including weakness, inability to function at one's optimum level, and the like, it could have serious repercussions on national security and the very integrity of the nation and its frontiers. These cannot be compromised.

39. The respondents have treated the petitioner as ineligible for appointment to the NDA essentially because the HbE trait, carried by

him, could render him susceptible to anaemia or similar conditions when placed in exacerbating situations. In our view, this is a legitimate consideration, and this Court, under Article 226 of the Constitution of India, is certainly not competent to take any other subjective view in that regard, or interfere with the discretion of the respondents.

40. The submission of Mr. Mukunda that, if this view were to be adopted, it would exclude, from the portals of the NDA, a large proportion of persons residing in the North-East, or from other states, quite obviously, has merely to be stated to be rejected. If such persons, owing to the possession of the HbE trait, are unfit for appointment to the NDA, that is but a consequence with which we can hardly interfere. Considerations of inclusivity and ensuring representation, in the Armed Forces, of persons from all parts of the country cannot, quite obviously, trump concerns of national security and operational efficiency of the persons who are recruited to the Armed Forces. It is well-settled that personal rights have to cede place to the national public interest.

41. Para 74 of the judgment of the Supreme Court in ***Nitisha***, to our view, supports the stand that we have taken. We have clearly held that the exclusion, from the NDA, of persons suffering from haemoglobinopathies of any kind, even in the form of the HbE trait, is in the interests of "successful job performance", as expressed by the Supreme Court. Para 74 also recognises the necessary of granting some amount of deference to the employer's view. We have also closely scrutinised the justification proffered by the respondents for

regarding the petitioner has ineligible for admission to the NDA, and find it to be beyond judicial cavil. There are no viable alternatives that come to mind; nor has Mr. Mukunda been able to suggest any such alternatives.

42. It is obviously not possible for us to issue any direction to the respondents, at a stage at which the petitioner is yet to join the NDA, to ensure that he is posted at such a place and in such circumstances in which he would not be susceptible to anaemia. The respondents have, therefore, taken a correct and conscious decision not to permit the petitioner, as a candidate who carries the HbE trait, which falls within the broad parenthesis of "haemoglobinopathies", to join the NDA.

43. We are not inclined to advert to the practices which are followed in foreign jurisdictions. The challenges faced by India, especially with respect to its defence and paramilitary services, are unique to India, and it would be completely unrealistic to import, into our country, practices which are followed in jurisdictions such as the US or the UK. We, therefore, do not propose to return any finding with respect to the practices followed in such foreign jurisdictions.

44. In view of the aforesaid discussion, we see no reason to "read down" Clause 3.8.3 of the Guidelines, as also prayed by the petitioner in the writ petition.

Conclusion

45. For the aforesaid reasons, we are of the opinion that it is not

possible for us to grant the relief sought in this petition.

46. The petition is accordingly dismissed.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JULY 8, 2025*/aky*

Click here to check corrigendum, if any