



2025:DHC:3170-DB



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

Date of decision: 01.05.2025

+ W.P.(C) 5721/2025

STAFF SELECTION COMMISSION & ANRPetitioners

Through: Mr.P.S. Singh, SCGS, Ms.Annu
Singh, Ms.Minakshi Singh,
Advs.

versus

TUSHAR DESHWALRespondent

Through: Mr.Jatin Parashar, Mr.Rohit
Bhagat, Ms.Aprajita, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MINI PUSHKARNA

NAVIN CHAWLA, J. (ORAL)

CM APPL. 26059/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 5721/2025 & CM APPL. 26058/2025

2. This petition has been filed by the petitioners, challenging the Order dated 03.09.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal') in O.A. No. 3422/2024, titled *Tushar Deshwal v Staff Selection Commission & Anr.*, whereby the learned Tribunal allowed the said O.A. filed by the respondent herein and directed the petitioners to conduct a Re-Medical Examination of the respondent in accordance with the directions issued by the learned Tribunal in O.A.1857/2024, titled *Vatan Singh v. Staff Selection Commission &*



Ors., which in turn was based on the order dated 10.05.2024 passed by the learned Tribunal in O.A. No 519/2024 titled *Teekaram Singh Meena V. SSC & Ors.*

3. Briefly stated, the respondent had applied for the post of Constable (Executive) (Male) pursuant to the Advertisement dated 01.09.2023 issued by the petitioners herein for the recruitment to the post of Constable (Executive) (Male and Female) in the Delhi Police, 2023.

4. The respondent successfully cleared the initial stages of the recruitment, however, was declared medically ‘unfit’ for appointment to the said post by the Detailed Medical Examination Board (in short, ‘DME’) on the following grounds:

- “1. *Poor Dentition Dental Point-13*
2. *Tachycardia*
3. *Hypertension*”

5. The respondent applied for a Review Medical Examination (in short, ‘RME’). The Review Medical Board referred him to the BSF Hospital for observation for *High Blood Pressure* and *Tachycardia*. Based on the report of the said examination, including the ECG, the respondent was declared ‘unfit’ for appointment on the ground of *Tachycardia*.

6. The respondent thereafter got himself examined at the VMMC & Safdarjung Hospital and, based on their report, approached the learned Tribunal challenging the finding of the DME and the RME.

7. The learned Tribunal, as noted hereinabove, has allowed the O.A. filed by the respondent.



8. The learned counsel for the petitioners submits that as the RME had referred the respondent to the BSF Hospital for a complete and thorough examination before declaring him as 'unfit' for appointment, the report of the RME could not have been interfered with by the learned Tribunal in a casual manner, as has been done by the Impugned Order.

9. Issue notice.

10. Notice is accepted by Mr.Jatin Parashar, the learned counsel for the respondent.

11. With the consent of the parties, the petition is being taken up for final hearing at this stage itself.

12. The learned counsel for the respondent, at the outset, submits that the present petition has been filed with delay and laches. He further submits that the respondent got himself examined at the VMMC & Safdarjung Hospital, where he was found to be medically fit for appointment. He submits that, therefore, no fault can be found with the learned Tribunal in directing the re-medical examination of the respondent.

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

14. At the outset, we find that the Impugned Order is completely cryptic and does not even provide reasons for allowing the O.A. filed by the respondent. It merely follows the earlier decision in O.A.1857/2024 without even discussing whether the case of the respondent was factually similar to the facts in the said O.A. We must note herein that the application of law in each case has to be



determined by the facts of each case, and it cannot be a situation of ‘one shoe fit all’.

15. Coming to the merits of the present petition, before being declared ‘unfit’ for appointment, the respondent was referred by the RME to the BSF Hospital, wherein he was kept under observation; his Blood Pressure readings were taken at regular intervals; and an ECG was also conducted. Based on these reports, the respondent was declared ‘unfit’ for appointment on the ground of the presence of *Tachycardia*. The Blood Pressure and the pulse rate readings corroborate the said findings.

16. Merely because the respondent was later found to be fit by a Government Hospital, even as reputed as the VMMC & Safdarjung Hospital, would still not constitute a valid ground for setting aside the consistent finding of the DME and the RME on the medical unfitness of the respondent. In *Staff Selection Commission & Ors. v. Aman Singh*, 2024 SCC OnLine Del 7600, this principle was reiterated by a Co-ordinate Bench of this Court as under:

“ 10.38 In our considered opinion, the following principles would apply:

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(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

