



2025:DHC:3452-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 06.05.2025***

+ W.P.(C) 5976/2025

UNION OF INDIA &amp; ORS.

.....Petitioners

Through: Mr.Amit Gupta, SPC and  
Ms.Avshreya Pratap Singh  
Rudy, SPC Mr.Vikas Kumar,  
Pairvi Officer

versus

MANISH SHARMA

.....Respondent

Through: Mr.Rajesh Chauhan, Adv.

**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE RENU BHATNAGAR****NAVIN CHAWLA, J. (ORAL)****CM APPL. 27497/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

**W.P.(C) 5976/2025 & CM APPL. 27382/2025.**

2. This petition has been filed by the petitioners, challenging the Order dated 11.03.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'learned Tribunal') in O.A. No.1031/2024 titled *Manish Sharma v. Union of India & Ors.*, allowing the said O.A. filed by the respondent herein with the following directions:

*“ 9. The present OA is accordingly disposed of with a direction to the competent authority amongst the respondents to conduct a fresh medical examination of the applicant by way of constituting an appropriate medical board in any government medical hospital except the Hospital which has already conducted the initial and the review medical examination.*



*10. Needless to say that the competent authority shall thereafter pass appropriate orders with respect to the candidature of the applicant on the basis of the outcome of such an independent/fresh medical examination.*

*11. The directions contained herein shall be complied with within a period of six weeks from the date of receipt of a certified copy of this order. In the event of the applicant being declared medically fit and 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.”*

3. Briefly stated, the facts giving rise to the present petition are that 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 of Constable (Executive) (Male and Female) in the Delhi Police, 2023.

4. The respondent successfully cleared the initial stages of the recruitment, however, he was declared ‘unfit’ for appointment to the said post by the Detailed Medical Examination Board (in short, ‘DME’), *vide* its report dated 19.01.2024, on the following grounds:

*“Defective Vision and Umbilical Hernia.”*

5. Aggrieved thereby, the respondent applied for a Review Medical Examination (in Short, ‘RME’). The RME Board, *vide* report dated 23.01.2024, declared the respondent as ‘unfit’ for appointment finding him to be suffering from “*Left Side Varicocele*”



6. The respondent thereafter got himself examined at the Government Hospital, where he was declared 'fit'. Armed with the said report the respondent approached the learned Tribunal.

7. The learned counsel for the petitioners submits that the RME, consisting of senior doctors, has found the respondent suffering from '*Left Side Varicocele*' and, therefore, rightly declared the respondent 'unfit' for appointment. He submits that the said finding cannot be ignored and that the respondent having undertaken to accept the terms and conditions of the recruitment process, cannot now challenge the same.

8. On the other hand, the learned counsel for the respondent, who appears on advance notice, submits that there is a clear inconsistency between the reports of the DME and the RME inasmuch as the DME found the respondent 'unfit' on the ground of '*Defective Vision and Umbilical Hernia*', while the RME found the respondent 'unfit' on the ground of '*Left Side Varicocele*'. He submits that on account of these inconsistencies, the respondent should be granted another opportunity for medical examination.

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

10. At the outset, we note that this petition challenges the Order dated 11.03.2024 whereby the learned Tribunal had directed that the respondent be allowed to appear for the fresh Medical Examination to be conducted by the petitioners. The petition has been filed after much delay and without giving any explanation for such delay. The petition,



as it relates to a recruitment process is, therefore, highly belated and liable to be dismissed on the ground of delay and laches alone.

11. Be that as it may, we have also considered the claim of the petitioners on merits.

12. In *Staff Selection Commission & Ors. v. Aman Singh*, 2024 SCC OnLine Del 7600, this Court, while giving the illustration of situations where a Court can legitimately interfere with the final outcome of the examination of the candidate by the Medical Board or the Review Medical Board, held the same to be justified where there is a notable discrepancy between the findings of the DME and the RME. We quote from the judgment as under:

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

*xxx*

*(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:*

*xxx*

*(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.”*

13. As is evident from the submissions of the learned counsels for the parties and the documents placed on record, there is a clear inconsistency between the DME and the RME inasmuch as the DME found the respondent ‘unfit’ on the ground of ‘*Defective Vision and Umbilical Hernia*’ while the RME found the respondent ‘unfit’ on the ground of ‘*Left Side Varicocele*’.

14. In view of the above, we find no merit in the present petition. The same, along with the pending application, is accordingly dismissed.

15. However, we make it clear that in case in the fresh Review Medical Board examination, the respondent is again found to be ‘unfit’ for appointment for the reason given by the RME, the result of the said report shall be binding on the respondent and a challenge thereto shall not be maintainable.

**NAVIN CHAWLA, J**

**RENU BHATNAGAR, J**

**MAY 6, 2025/DG**

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