



2025:DHC:188-DB



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

Date of decision: 15.01.2025

+ W.P.(C) 510/2025

KAUSHAL KUMAR

.....Petitioner

Through: Mr.Prahil Sharma, Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr.Soumava Karmakar, SPC,
Mr.Rahul Kr.Sharma, GP,
Ms.Jyoti Bajaj, Adv. with AC
G.S. Rathore, SI Prahlad
Devenda-CIFS

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 2375/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 510/2025 & CM APPL. 2374/2025

2. This petition has been filed by the petitioner, challenging the Detailed Medical Examination Board Report dated 29.11.2024 (in short, 'DME') and the Review Medical Examination Board Report dated 06.12.2024 (in short, 'RME'), by which the petitioner has been declared unfit for appointment to the post of Assistant Sub-Inspector (Executive) in the Limited Departmental Competitive Examination-2022.



3. The DME in its report dated 29.11.2024, declared the petitioner 'unfit' for appointment to the above post, by observing that the petitioner is suffering from 'Coronal Hypospadias'.

4. The RME referred the petitioner to a Specialist Urologist in the Safdarjung Hospital, New Delhi, and taking into account its report, again declared the petitioner unfit for appointment, *vide* its Impugned Report dated 06.12.2024, with the following observations:

"2) Brief of Review Medical Examination & Finding thereof. Board examined the candidate O/E- Urethral meatus opening ventral to normal opening scan. Coronal hypospadias seen. Board referred for uro surgical spl opinion from Safdarjung Hospital.

Dr. Ketan Kapoor Urologist, Satomjung Hospital opinion. O/E Coronal hypospadias as per Revised guidelines for recruitment in CAPF & AR, May 2015 page 34, para XIII, subpara 3(c) cases of hypospadias should be rejected.

Keeping in view of above,

3) Final Opinion

a) UNFIT


*b) UNFIT on account of **Coronal Hypospadias.**"*

5. The learned counsel for the petitioner submits that post being declared unfit for appointment, the petitioner again got himself examined at the VMMC & Safdarjung Hospital, Delhi, wherein the doctor has given the following report:



Refer 1/1/0
 Coronal hypospadias

No urinary symptoms
 No h/o intercourse issue
 No issue of cosmesis

OE 

Prepuce (N)
 (No dorsal hooded prepuce)
 No chordee

Meatus (N)
 (Enlarged size leading to extendy till coronal margin)


Adv

- No active management needed from Urology side
- No need for surgery at present
- Fit for Duty from Urology point of view

DR. HARSHDEEP SINGH
 Senior Resident
 Dept. of Urology & Renal Transplant
 Kailash Hospital, Greater Noida

हमारे देश में लगभग हर 8 मिनट में एक महिला की मृत्यु रक्त या अंगुणिक कैंसर की वजह से होती है। जीव करें और इन जानलेवा कैंसरों से खुद को बचाएं। आप प्रतिदिन सुबह सावनी ओबीडी का पेशा मुक्ति अभियान में जीव कर सकते हैं। ये परीक्षण सरल है और दर्दनाक नहीं है।

T/A



6. He submits that the doctor has *inter alia* opined that there are no urinary symptoms and no active management is needed for the condition of the petitioner, and that the petitioner is fit for duty from the urology point of view. He submits that the petitioner has also got himself examined at the Kailash Hospital, Greater Noida, where also it was opined that no intervention is required.

7. The learned counsel for the petitioner submits that the condition suffered by the petitioner is, in fact, by birth, but in spite of the same, the petitioner was duly recruited as Constable (GD) in the CISF, clearly evidencing that the petitioner has been declared fit for appointment.



taken an opinion of the Specialist Urologist before giving its Impugned Report. This is unlike in the case of ***Ayush Kumar (Minor) Through Mother Neetu Bhola*** (supra), referred to hereinabove.

15. Merely because the petitioner had been earlier selected for the post of Constable (GD), also cannot come to the support of the petitioner as recruitment through LDCE is independent of the same and the candidate must clear all requirements for the same independently. In ***Pavnesk Kumar v. Union of India & Ors.***, 2023 SCC OnLine SC 1583, the Supreme Court has opined as under:

“8. In view of the above terms and conditions of the advertisement for the post of Sub-Inspector (GD) through LDCE, the candidates were supposed to successfully complete the first four stages of the examination and then have to be medically declared fit for the post in the fifth stage. The declaration of medically fit after undergoing the four stages of the examination was in addition to the eligibility condition of being in the medical category SHAPE-I which was a condition precedent for participating in LDCE. The declaration of any candidate in the medical category SHAPE-I was not sufficient enough to treat him to be medically fit for the post.

9. The appellant was issued a call letter dated 16.11.2019 by the recruitment officer to appear in the detailed medical examination for selection to the post of Sub-Inspector (GD) in BSF through LDCE 2018-2019. The said letter indicates that the appellant was called for stage-V detailed medical examination on 23.12.2019. Upon such medical examination on the aforesaid date, the appellant was not found medically fit for the reason that he suffered from Right Sided Varicocele, Varicose Vein left calf, Tachycardia pulse rate 110/min (normal range 60-110/min).

10. The appellant appealed against the above



decision whereupon the review medical examination by Board of three members on 27.02.2020 confirmed the medical report and declared the appellant to be unfit. The Medical Board recorded the reasons of unfitness of the appellant noticing the fact that he was operated upon on 28.12.2019.

11. The submission of the Counsel for the appellant that once the appellant was declared medically fit, the respondent BSF could not have reviewed the matter to take a contrary decision declaring him medically unfit.

12. The above submission of the counsel is ex-facie bereft of merit as the appellant was never declared medically fit for the post of Sub-Inspector (GD) pursuant to his candidature for the said post through LDCE. The appellant had undergone routine annual medical check-up as a constable and was declared in medical category SHAPE-I, which was the eligibility condition for applying to the post of Sub-Inspector (GD) through LDCE. The appellant was never declared medically fit in the process of selection for the post of Sub-Inspector (GD). The appellant may have qualified stage-I to stage-IV of the process of examination but never qualified stage-V which consisted of the detailed medical examination. The said detailed medical examination as per the call letter referred to above was done only on 23.12.2019 and not on any earlier date. In the said detailed medical examination the appellant was declared unfit which decision was upheld by the review medical examination by the board of three members despite appellant having undergone a minor surgery for the cure of medical deficiencies pointed out earlier. The medical examination of the appellant conducted on 16.12.1999 was a routine annual examination which declared him in medical category SHAPE-I. It was not a part of examination process for selection to the post of Sub-Inspector (GD) through LDCE. The appellant never successfully qualified all the five stages of examination as advertised for

