



2025:DHC:402-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 22.01.2025

+ W.P.(C) 14189/2024 & CM APPL. 59390-92/2024
GOVT OF NCT OF DELHI AND ANRPetitioners
Through: Ms.Radhika Bishwajit Dubey,
CGSC with Ms.Gurleen Kaur
Waraich, Adv.

versus

OM PRAKASHRespondent
Through: Mr.Rajesh Chauhan, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

NAVIN CHAWLA, J. (Oral)

1. This petition has been filed by the petitioner, challenging the Order dated 04.04.2024 passed by the Central Administration Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in Original Application No.1370/2024, titled *Om Prakash v. Govt. of NCT of Delhi & Anr.*, whereby the learned Tribunal allowed the Original Application filed by the respondent herein and directed the petitioner herein to conduct a fresh Medical Examination of the respondent by way of constituting an appropriate Medical Board in any Government Medical Hospital, except the hospital which has also conducted the initial and the Review Medical Examination of the respondent.
2. The respondent had filed the above Original Application before



(vii) The extent of judicial review has, at all times, to be restricted to the medical examination of the candidate concerned. The Court is completely proscribed even from observing, much less opining, that the medical disability from which the candidate may be suffering is not such as would interfere with the discharge, by her, or him, of her, or his, duties as a member of the concerned Force. The suitability of the candidates to function as a member of the Force, given the medical condition from which the candidate suffers, has to be entirely left to the members of the Force to assess the candidate, as they alone are aware of the nature of the work that the candidate, if appointed, would have to undertake, and the capacity of the candidates to undertake the said work. In other words, once the Court finds that the decision that the candidate concerned suffers from a particular ailment does not merit judicial interference, the matter must rest there. The Court cannot proceed one step further and examine whether the ailment is such as would render the candidate unfit for appointment as a member of the concerned Force.”

7. From a reading of the above, it would be apparent that though there can be no absolute exclusion of judicial review against the decision of the Medical Boards, at the same time, the power of the judicial review is limited and the Court can only examine whether the manner in which the candidate was assessed by the Medical Boards and the conclusion drawn by the Medical Boards transgress any established norm of law and procedure of fair play. The Court not being the medical expert, would not venture out to act as an appellate authority against such medical opinion. As far as the opinion obtained by the candidate from the Private Hospital or even a Government Hospital that contradicts the opinion of the DME or the RME is concerned, due



weightage would be given to the opinion of the DME and the RME particularly where they have obtained an opinion from an expert/specialist or where the DME/RME itself consists of a specialist in the relevant field.

8. In the present case, the RME, before declaring the respondent unfit for appointment on the grounds of “*Exotropia (squint)*” had taken an opinion of an Ophthalmologist. Therefore, merely because the respondent has later obtained a contrary opinion from the Anand Hospital & Eye Centre, may not have been sufficient to direct the re-examination of the respondent. The learned Tribunal should have been cognizant of the fact that there has to be finality attached to the process of the medical examination, and unless the limited scope for judicial intervention is made out, the Court/Tribunal would refrain itself from re-opening the same.

9. In the present case, the learned Tribunal in the Impugned Order has merely placed reliance on its earlier Order dated 11.03.2024, passed in O.A. 670/2024, without appreciating that in the said case, the learned Tribunal had found that the DME and the RME had probably been conducted by the same set of doctors, thereby defeating the very purpose of the RME. In the present case, however, the DME and the RME report, in fact, show that there were different set of doctors who conducted the two examinations, and as noted hereinabove, even an opinion from the expert was taken. Therefore, the learned Tribunal erred in relying upon its earlier order.

10. Apart from the above, there was no other discussion by the learned Tribunal as to why the reports of the DME and the RME deserve to be set aside or why the fresh medical examination of the

