



2025:DHC:429-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of decision: 24.01.2025*

+ W.P.(C) 933/2025  
NILESH KUMAR YADAV .....Petitioner  
Through: Mr.Rajesh Srivastava,  
Mr.Rajesh K. Singh, Mr.Amit  
Pandey and Mr.Gaurav Verma,  
Advs.

versus

CISF AND ANR. ....Respondents  
Through: Mr.Vinay Yadav, SPC with  
Mr.Amit Acharya, GP, Mr.R.  
Venkat Prabhat, Mr.Abhinav  
M. Goel, Mr.Ansh Kalra and  
Mrs.Kamna Beharani, Adv.  
DC Vikash Kumar, CISF, SI  
Pralhad Devenda and SI Amit  
Kumar, CISF.

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MR. JUSTICE MANOJ JAIN**

**NAVIN CHAWLA, J. (Oral)**

**CM APPL. 4556/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

**W.P.(C) 933/2025 & CM APPL. 4555/2025**

2. This petition has been filed by the petitioner, challenging the Report dated 06.12.2024 of the Detailed Medical Board and the Report dated 12.12.2024 of the Review Medical Board (RMB),



whereby the petitioner has been declared 'unfit' for appointment to the post of Assistant Sub Inspector (Executive) through the Limited Departmental Competitive Examination (LDCE) for the year 2022, finding him to be suffering from "*Right Testicular Hypertrophy*".

3. The learned counsel for the petitioner, placing reliance on Clause (XIII) (3) (e) of the Guidelines for Recruitment Medical Examination in Central Armed Police Forces (CAPFs) and Assam Rifles as on May 2015 (hereinafter referred to as 'Guidelines'), submits that the said Guidelines would not render the petitioner 'unfit' for appointment as in the present case when the petitioner got himself examined at the All India Institute of Medical Sciences, New Delhi (AIIMS), it was reported that the petitioner is suffering from only 'Minimal Hydrocele' on the right side, which requires no active intervention, and he was declared as fit for duty. He submits that, in view of the said Report, the respondents should be directed to have the petitioner re-examined to determine his fitness.

4. The learned counsel for the petitioner submits that the petitioner is presently working as a Constable (CT/GD), and in the case of a normal promotion to the post of Assistant Sub Inspector (Executive), the condition from which the petitioner suffers would not be a disqualification.

5. Issue notice.

6. Notice is accepted by Mr. Vinay Yadav, the learned counsel on behalf of the respondents.

7. He submits that in the present case, the RMB before declaring the petitioner unfit for appointment, had also sought the opinion of an



expert, and basis the Report, has rejected the candidature of the petitioner. He further submits that even a Minimal Hydrocele will be a disqualification for appointment. He submits that merely because the petitioner is presently working within the organisation, the same would not entitle him to any special benefit as far as the LDCE examination is concerned.

8. In support of his submissions, the learned counsel for the respondents places reliance on the Judgment of this Court in *Nitish Kumar v. Union of India & Ors.*, 2025:DHC:202-DB, and the Judgment of the Supreme Court in *Pavnesh Kumar v. UOI & Ors.*, 2023 SCC OnLine SC 1583.

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

10. Clause (XIII) (3) (e) of the Guidelines, relied upon by the learned counsel for the petitioner, read as under:

*“XIII. EXAMINATION OF INGUINAL REGION AND GENITALS:*

*xxx*

3. *Look for –*

*xxx*

*(e) Scrotum: Look if both the testes are in the scrotal sac and of normal size. The scrotum should be examined for Hydrocele, Varicocele and abnormality of the testis like undescended testis, ectopic testis, atrophic testis or neoplasia of testis. Grade I Varicocele is acceptable. Undescended testis/ ectopic testis and atrophic/ hypotrophic testis are considered as disqualification.”*

(Emphasis supplied)



11. The above Clause would show that there is a special requirement of examination of a candidate for Hydrocele, and hypotrophic testis is considered a disqualification from appointment.

12. The Medical Report obtained by the petitioner from AIIMS also records that the petitioner is suffering from a Minimal Hydrocele.

13. This Court in *Nitesh Kumar* (supra) had taken note of Clause 2 (6) (25) of the Medical Guidelines which reads as under:

*“6. GENERAL GROUNDS FOR REJECTION*

*xxx*

*25) Large hydrocele, even if curable by operation. Small hydrocele (if operated upon & no bad scar is left after operation, may be accepted).”*

14. Having considered the above condition, the Court held as under:

*“ 9. A reading of the above would show that as far as the large Hydrocele is concerned, even if it is curable by operation, it is a ground for rejection of candidature. Further, while small Hydrocele by itself is also a ground for rejection of candidature, however, if operated upon and no bad scar is left after operation, the candidature may be accepted.”*

15. The learned counsel for the petitioner submits that there has to be a distinction between a “Small Hydrocele” and a “Minimal Hydrocele”. We do not find any such distinction in the Medical Guidelines. Therefore, a small or minimal hydrocele is also a disqualification from appointment.

16. As is evident from the RMB Report, the respondents, before



declaring the petitioner 'unfit' for appointment, had also taken the opinion of a medical expert. The RMB in its report records as under:

*“Part examine individual & referred him to surgery OPD USG scrotum at GIMS, G. NOIDA.*

*as per Opinion & Diagnosis by Dr.Atul Singh Acute epididymitis-echopoor & shows high vascular right calcification in both testicular probably due to clot healed infection. As per (Medical Recruitment Guidelines, Revised, 2015 Page No. 35, para (e) scrotum Hypotrophic testis are considered as disqualify)*

*Board also agrees with specialist USG Report Opinion: mentioned in guidelines: Individual declared UNFIT for the above-mentioned reason.”*

17. The clinical examination reports were also obtained before declaring the petitioner unfit.

18. It is well settled law that medical opinion of the Medical Boards, unless found to be rendered in violation of the Rules, or without following the prescribed procedure, or found to have ignored the opinion of the experts, or found to be suffering from other legal infirmity, should not be interfered with lightly.

19. In the present case, we do not find that any reason is made out by the petitioner to interfere with the findings of the Medical Boards.

20. As far as the submission of the learned counsel for the petitioner that the petitioner is already working as a Constable with the respondent/CISF and that in the normal course of promotion this condition may not be a disqualification is concerned, the Supreme



Court in *Pavnesh Kumar* (supra) has rejected a similar submission, by observing as under:

*“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 the selection to the post of Sub-Inspector (GD) through LDCE.*

*13. It was next contended that the appointment through LDCE is like fast-track promotion and is not a fresh appointment. Therefore, recruitment rules and guidelines applicable to*



*the normal mode of promotion would have been applied and not any different medical standards.*

*14. No doubt appointment to a higher post of an incumbent working on lower post is in the form of an accelerated promotion but it cannot be equated with normal mode of promotion. This is evident from the advertisement itself which in unequivocal terms states that applications are invited for selection to the post of Sub-Inspector (GD) in BSF through LDCE. The very fact that the applications were invited for selection to the post of Sub-Inspector (GD) connotes that it was not a normal promotion rather selection to the higher post from amongst the eligible candidates working on the lower post. Thus, the submission that the normal rules of promotion or medical examination ought to have been applied, is not acceptable.*

*15. This apart, selection was to be conducted in terms of the advertisement. The scheme of the selection contained in the advertisement categorically provided clearing of the examination in all the five stages which included detailed medical examination. This was independent and in addition of the eligibility condition that a candidate must possess the medical category SHAPE-I while working on the lower post.*

*16. Additionally, a distinction has to be drawn between a normal promotion and promotion by selection through LDCE. Promotion by selection through LDCE vis-à-vis competitive examination is a facility or a chance given for out of their promotion without waiting for the normal course of promotion. It in effect is selection through competitive examination within the limited category of candidates and cannot be equated with normal promotion. This being the position, the argument that regular promotion criteria had to be applied with regard to medical fitness even in the matter of selection through LDCE is not acceptable.”*



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21. In view of the above, we find no merit in the present petition. The same is, accordingly, dismissed.

**NAVIN CHAWLA, J**

**MANOJ JAIN, J**

**JANUARY 24, 2025/sg/DG**

*Click here to check corrigendum, if any*