



2025:DHC:1899-DB



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

Date of decision: 24.03.2025

+ W.P.(C) 2423/2025
STAFF SELECTION COMMISSION & ORS.Petitioners
Through: Mr.Shashank Dixit, CGSC with
Mr.Rohit Gupta, Adv.

versus

MOHAN SHARMARespondent
Through: Mr.Setu Niket, Ms.Esha
Mazumdar and Ms.Unni Maya,
Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

W.P.(C) 2423/2025 & CM APPL. 11531/2025, CM APPL. 11532/2025

1. This petition has been filed by the petitioners, challenging the Order dated 27.08.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1537/2024, titled "*Mohan Sharma v. Staff Selection Commission & Ors.*", allowing the said O.A. filed by the respondent herein and directing as under:

"7. In our considered view, the ratio of the aforesaid Order applies to the facts of the present case as well. Accordingly, the OA is also disposed of with a direction to the



competent authority amongst the respondent to conduct a fresh medical examination of the applicant by way of constituting an appropriate medical board in any government hospital except the hospital which has already conducted the initial and the review medical examination. Appropriate orders with respect to the candidature of the applicant on the basis of the outcome of such an independent/fresh medical examination be passed thereafter under intimation to the applicant.

8. The aforesaid directions shall be complied with within a period of twelve weeks from the date of receipt of a certified copy of this order. In the event the applicant is being declared medically fit, 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. No costs.”

2. In the present case, the respondent had applied for the post of Constable (Executive) (Male) pursuant to the Notification/Advertisement issued by the Staff Selection Commission (SSC) for the post of Constable (Executive) Male and Female in Delhi Police Examination, 2023.

3. Having successfully qualified in the initial stages of the selection process, the respondent was subjected to a Medical Board on 21.01.2024, which declared the respondent ‘unfit’ for appointment finding him to be suffering from ‘*varicose veins*’.

4. The respondent was then referred to Dr. Baba Saheb Ambedkar Hospital, Rohini for an examination, wherein the specialist, in its report dated 25.01.2024, opined that the respondent required further surgical management before fitness. The respondent, however, was



immediately subjected to a Review Medical Board and on the same ground of the presence of ‘*varicose veins*’, was declared ‘unfit’ for appointment *vide* the Report dated 27.01.2024.

5. The learned Tribunal has placed reliance on its Judgment dated 10.05.2024 in O.A. No.519/2024 for granting the relief to the respondent.

6. The learned counsel for the petitioners submits that the learned Tribunal has erred in granting the relief to the respondent inasmuch as the DME and the RME both found the respondent ‘unfit’ for appointment due to the presence of ‘*varicose veins*’. He further submits that the opinion of the Medical Board cannot be brushed aside and the Judgment dated 10.05.2024 relied upon by the learned Tribunal is not applicable to the facts of the present case.

7. He submits that he has just received a copy of the reply filed by the respondent to the present petition and prays for time to file rejoinder thereto.

8. On the other hand, the learned counsel for the respondent submits that the issue raised in the present petition is no longer *res integra* and has been decided by this Court *vide* its Judgment dated 24.10.2024 passed in W.P.(C)13717/2024, titled ***Staff Selection Commission & Ors. v. Vatan Singh***, wherein, on similar facts, this Court had dismissed the challenge of the petitioners, observing as under:

“24. In the present case, the DMB, which convened on 19 January 2024, found the respondent to be suffering from varicocele. The Review Medical Board, eight days later,



on 27 January 2024, referred the respondent to the BSA hospital for opinion, specifically stating that it was “for recruitment”. Once such a reference was made, the Review Medical Board could not merely brush the opinion of the hospital to which the respondent had been referred under the carpet. The hospital, on the very same day, opined that, if the respondent underwent surgical intervention, he may have been fit for appointment.

25. Instead of waiting for the respondent to undergo surgical intervention and correct his condition, the RME, a mere two days thereafter, on 29 January 2024, rejected the respondent's candidature, ironically noting, even while doing so, that the respondent required surgical intervention for fitness.

26. If this decision of the Review Medical Board were to be accepted, it would render the very purpose of referring the respondent to the BSA hospital for opinion regarding his entitlement for recruitment completely redundant and an exercise in futility.

*27. The respondent claims to have undergone a surgery and that he is now fit for appointment. Unlike the situation which obtained in *Rockey*, the petitioner has not drawn our attention to any instruction or guideline which mandated only requires the RME to be conducted within a stipulated number of days of the DME. We are of the view, therefore, that the respondent ought to have been allowed to undergo surgery and attempt to correct his condition, especially as the BSA Hospital, to which the Review Medical Board itself referred his case, opined that, with surgery, he would become fit for appointment.*

28. Now that the respondent claims to have undergone surgery, we are of the opinion that a fresh assessment of his medical condition,



and his fitness for recruitment as a Constable, would eminently serve the interests of justice.

29. In the peculiar facts of this case, therefore, we do not find any reason to interfere with the decision of the learned Tribunal in exercise of our jurisdiction under Article 226 of the Constitution of India.”

9. She further submits that the respondent has, in fact, undergone a surgery on 09.03.2024 at the Elantis Hospital, New Delhi and has placed on record documents claiming that the respondent is now fit, from the Lok Nayak Hospital, New Delhi dated 16.03.2024 and Lal Bahadur Shastri Hospital, New Delhi dated 19.03.2024.

10. She further submits that she is not placing any reliance on the reply filed by the respondent to the present petition.

11. We have considered the submissions made by the learned counsels of the parties.

12. As the learned counsel for the respondents has submitted that she is not placing any reliance on the reply filed by the respondent, in fact, the said reply is not even on record, we do not deem it necessary to adjourn the hearing of the petition awaiting the rejoinder from the petitioners.

13. The factual situation in the present petition is similar to that of **Vatan Singh** (supra), wherein the respondent, though having been referred to a hospital for obtaining opinion by the RMB and the hospital opining that with a surgical intervention the respondent may gain fitness, the RME did not allow sufficient time to the respondent to undergo the surgical process. This Court, therefore, upheld the order of the learned Tribunal directing re-medical examination of the



2025:DHC:1899-DB



respondent therein. We, therefore, following the said judgment, find no merit in the present petition.

14. Accordingly, we dismiss the present petition in the peculiar facts of the present case.

15. The pending applications also stand dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MARCH 24, 2025/sg/IK

Click here to check corrigendum, if any