
(2020) 11 DEL CK 0129

In the Delhi High Court

Case No : Civil Writ Petition No. 7755 Of 2020, Civil Miscellaneous Application
No. 25568 Of 2020

Akash Sharma Roll No.1901145499

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 17-11-2020

Acts Referred:

Constitution Of India, 1950 — Article 226, 227

Citation : (2020) 11 DEL CK 0129

Hon'ble Judges : Rajiv Sahai Endlaw, J;Asha Menon, J

Bench : Division Bench

Advocate : Manoj Kumar Gupta, Rajesh Nandal, Ripudaman Bhardwaj, T.P.
Singh, Kushagra Kumar

Final Decision : Dismissed

Judgement

DVA,6 / 6,6/6 â?" 1.00 DS

,6 / 18,6/6 â?" 1.00 DS

petitioner has been examined by a specialist in the area in which the petitioner was found deficient. This is also as per the Rules.,,

13. In a recent decision of this court in W.P. (C) No. 4558/2020 titled as Sharvan Kumar Rai vs. Union of India & Others, decided on 27thÂ July",,

2020, this Court has reiterated that the report ofÂ theÂ MedicalÂ BoardÂ andÂ ReviewÂ MedicalÂ BoardÂ toÂ beÂ final decision of the",,

Medical Board, in the following words:-",,

â??4. We have recently in judgment dated 15th July, 2020 in W.P.(C) 3930/2020 titled Priti Yadav Vs. Union of India, in the context of",,

medical test for recruitment in the officer cadre of Indian Air Force, Rules wherein provide for examination by Medical Board, Appeal",,

Medical Board and Review Medical Board, held as under:-",,,

8. We have today again considered whether the petitioner is entitled to yet another chance and are unable to find any justification for,,

the same. We have already in the order dated 6th July, 2020 observed that fitness for serving requisite duties in the Air Force is a matter of",,,

opinion and if in the opinion of the authorities constituted under the Rules of the Air Force the petitioner is unfit, a report of a medical",,,

practitioner of another organization which does not intend to recruit the petitioner and which will not be affected by the medical unfitness,,

of the petitioner, cannot be the basis for interfering with the assessment by the Air Force. It cannot be lost sight of that just as in justice",,,

delivery, appeal provisions are provided to eliminate the possibility of human error, so have a sufficient number of opportunities of",,,

preferring an appeal and thereafter preferring a review have been provided in the matter of medical examination and just like the decision,,

making before the Courts cannot be indefinite, so can the decision making with respect to medical fitness in the Air Force, cannot be",,,

indefinite. There has to be a finality in decision making, as is there in the justice delivery system. It cannot be lost sight of that no mala fides",,,

are attributed with respect to any of the medical examinations or to the team of medical professionals conducting the medical examination. It,,

is the medical practitioners of the Air Force and Defence Services, who have themselves undergone the requisite trainings and discharge",,,

the functions of the organization, who are best suited to form an opinion as to the medical fitness of the candidates to be recruited and once",,,

they have so formed their opinion, there can be no interference therewith, at the mere asking of a rejected/disgruntled candidate.â??",,,

What has been held in the context of Air Force, equally applies here. Once the Rules provide for the report of the Medical Board and",,,

Review Medical Board to be final, every candidate declared medically unfit, cannot, at the mere asking, be granted another opportunity as",,,

is found to be sought in innumerable cases coming up before the courts. Medical opinion, like a legal opinion, can vary from professional",,,

to professional and once the Rules provide for finality and are found in the present case to have provided for a review, to eliminate the",,,

possibility of human error, that finality has to be accepted, unless a case for interference is made out.",,,

14. Para 7 of the same judgment :,,

â??7. We have in judgment dated 22nd May 2020 in W.P. (C) No. 3237/2020 titled Dhiraj Milind Dhurve vs. UPSC, in the context of",,,

medical examination test in Central Armed Police Forces (CAPFs) and which includes respondents CRPF, held, that the candidates found",,,

medically unfit cannot seek a change of the terms subject to which they have taken the examination and which terms uniformly apply to all",,,

candidates. It was held that the principle of â??Rules of the Game cannot be changed after the game has begunâ?? applies, with only a few",,,

of all those found medically unfit, who approach the court, being permitted another round of medical test.â??",,,

15. While, we may have sympathy for the young boy who is unable to join the Air Force as an Airman, we cannot overlook the fact that the standards",,,

of physical fitness are much higher for the Armed Forces than for civilian posts and rightly so, and we are reluctant to interfere with it. The petitioner",,,

has availed of all opportunities to get a second opinion from the specialist during the Appeal Medical Board and there is no purpose left in getting a",,,

further medical examination conducted.,,,

16. We do not find any merit in the present petition.,,,

17. Dismissed.,,,