

(2018) 01 DEL CK 0420

In the Delhi High Court

Case No : Civil Writ Petition No. 6203 Of 2017

Chandan Kumar Singh

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 18-01-2018

Acts Referred:

Citation : (2018) 01 DEL CK 0420

Hon'ble Judges : Hima Kohli, J; Rekha Palli, J

Bench : Division Bench

Advocate : Major K.Ramesh, Bhagvan Swarup Shukla, Kamaldeep, Suraj Kumar

Final Decision : Disposed Of

Judgement

1. The petitioner has filed this petition praying inter alia for quashing and setting aside the letter dated 21.06.2017, issued by the respondents, rejecting his request for another medical examination, with regard to his disability of 'squint & colour blindness' on the ground that no such procedure of conducting another medical examination after declaring him unfit by the Specialist after a review at the Military Hospital and in terms of the given policy. The petitioner also seeks directions to the respondents to have him re-examined at the Army R & R Hospital, Delhi for the disabilities on which he has been declared unfit by them.

2. The facts of the present case are that in September, 2016, the petitioner had applied for enrolment in the Indian Army. After undergoing a primary medical examination on 17.01.2017, the petitioner was found unfit on account of suffering from 'squint & colour blindness'. Aggrieved by the aforesaid report, on 7.04.2017, the petitioner submitted an application for a Review Medical Board which was turned down vide letters dated 29.05.2017 and 21.06.2017.

3. Learned counsel for the petitioner submits that thereafter, the petitioner had got himself independently examined at a private hospital namely Dr. Amrendra Hospital, Aara, Bihar by one Dr. Amrendra Anand, Eye and ENT Specialist who had cleared him of both the disabilities namely 'squint and colour blindness'.

4. Having perused the aforesaid document filed by the petitioner with the petition as Annexure P-3, we find that the name, age and address of the patient have been scored out and there are several over-writings. The said report does not bear the seal or the signatures of the doctor who had allegedly examined the petitioner. The veracity of the said document is highly suspect and cannot be relied on.

5. Learned counsel for the petitioner states that in all fairness, even if the report submitted by the petitioner, from a private hospital, is not taken into consideration, a perusal of the petitioner's first medical test undertaken on 17.01.2017 reveals that part-II had not been completed by any one of the three specialists, as the columns are blank. Further, the Review Certificate of the petitioner filed by the respondents does not indicate the opinion expressed by the GD Specialist (Ophthalmology) on examining the petitioner. He submits that the only request is that the respondents be directed to refer the petitioner to the Army R & R Hospital, Delhi for a medical examination and the petitioner shall accept the said report as final and binding.

6. Learned counsel for the respondents disputes the submission made by the other side that no Specialist had examined the petitioner on 16.08.2017. He states that the face of the Review Certificate of the petitioner filed along with the counter affidavit and marked as Annexure R-1, does not clearly indicate that any specialist had examined him, but the reverse of the said Certificate bears the seal and signatures of the GD Specialist (Ophthalmology).

7. We have perused the reverse side of the Review Certificate and the original records handed over by the learned counsel for the respondents in the course of arguments but we find that the reverse side of the said Certificate only bears a seal and signatures of the Eye Specialists and there are no remarks, of any nature above that.

8. In such circumstances, we deem it appropriate to allow the present petition by directing the respondents to approach the Army R & R Hospital, Delhi for constituting a Board of Members that shall include an Eye Specialist for conducting the petitioner's medical examination in respect of the disabilities mentioned above. The date and time for the petitioner to appear before the Board to be constituted by the Army R & R Hospital, Delhi shall be intimated by the respondents within four weeks and his medical examination shall be conducted within two weeks thereafter. If the opinion of the Medical Board is in favour of the petitioner, then the respondent shall appoint him subject to his meeting the eligibility criteria. It is agreed by the parties that the decision of the Medical Board constituted by the Army R & R Hospital, Delhi shall be final and binding.

9. The petition is disposed of.