

(2018) 03 DEL CK 0477

In the Delhi High Court

Case No : Civil Writ Petition No. 977 Of 2018, Civil Miscellaneous No. 4144 Of 2018

Daksh Bassi

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 20-03-2018

Acts Referred:

Citation : (2018) 03 DEL CK 0477

Hon'ble Judges : Hima Kohli, J;Pratibha Rani, J

Bench : Division Bench

Advocate : Surya Nath Pandey, Sanjeev Narula, Anumita Chandra, S.N.Singh, Naresh Kaushik, Devik Singh, Akash Mohapatra

Final Decision : Dismissed

Judgement

1. The petitioner is aggrieved by his non-selection by the respondents in the National Defence Academy and Naval Academy Examination (1)-2017 for NDA-139 Course and has prayed for issuance of a writ/direction to the respondents to constitute a Review Medial Board to re-examine him.

2. The brief facts of the case are that in January, 2017, the respondent No.2/ UPSC had published an Examination Notice for conducting examinations for admission to the Army, Navy and Air Force Wings of National Defence Academy and Indian Naval Academy Course through National Defence Academy and Naval Academy Examination (1) - 2017. The petitioner had applied online for participating in the aforesaid examination. On 23.04.2017, he had appeared in the written examination and had qualified for the same. On 16.08.2017, the petitioner was called for an interview by the Service Selection Board (SSB) at Allahabad. On 28.08.2017, the petitioner's medical examination was conducted by Medical Board (MB) at the Military Hospital, Allahabad, where he was declared medically unfit on two counts namely (i) Multiple Splenic Calcification and (ii) Bilateral Disc Oedema.

3. Immediately thereafter, on 29.08.2017, the petitioner had applied for an Appeal Medical Board. He was directed to appear before the said Board on 27.09.2017, at the Command Hospital, Kolkata where he was declared fit in so far as "Bilateral Disc Oedema" was concerned but was declared unfit on account of "Multiple Splenic Calcification". Thereafter, the petitioner filed an application asking for a Review Medical Board, which request was not responded to by the respondents.

4. Aggrieved thereby, the petitioner has filed the present petition for a direction to the respondents to have him re-examined by constituting a Review Medical Board.

5. On the last date of hearing, we had requested learned counsel for the respondents to obtain instructions with regard to the vacancy position in the NDA and the Naval Academy in terms of the advertisement for the subject examination, conducted in the year 2017 and he was asked to produce the relevant medical records of the petitioner's ailment. The original records have been produced by the learned counsel for the respondents and perused by us.

6. Learned counsel for the respondents states that once a candidate is declared unfit in the Appeal Medical Board, if he/she applies for a Review Medical Board, it is not mandatory that a Review Medical Board be constituted for the candidate and the said decision is taken at the discretion of the Ministry of Defence, based on the merits of each case. Photocopies of the medical reports of the petitioner are handed over by the learned counsel for the respondents and taken on record.

7. Having perused the said records, it transpires that initially the petitioner was examined at the Medical Board at the Military Hospital, Allahabad where he was declared unfit on the account of "Multiple Splenic Calcification" as also for "Bilateral Disc Oedema". The Appeal Medical Board had examined the petitioner on 27.09.2017, and Specialist had declared him fit in respect of "Bilateral Disc Oedema". However, the petitioner was declared unfit by a Three Member Board on 28.09.2017 on account of "Multiple Splenic Calcification".

8. Learned counsel for the respondents relies on the "Standard for Assessment by USG for Cadets including Women Candidates" guidelines dated 22.10.2009 and particularly, refers to the "Status of the spleen" which states that the candidate can be declared unfit if there is any space occupying lesion in the spleen. Learned counsel states that in the present case "Multiple Splenic Calcification" is in fact, a lesion in the spleen for which the petitioner has been declared medically unfit and in such circumstances, no useful purpose would be served by referring him for a Review Medical Board.

9. In view of the aforesaid reports and the guidelines, we do not see any justification to accede to the petitioner's request for a Review Medical Board by referring him to some independent hospital for re-examination. The prayer made in the present petition is declined.

10. The petition is dismissed, along with the pending application.