
(2012) 05 DEL CK 0415

In the Delhi High Court

Case No : Writ Petition (C) No. 3391 of 2012

Durga Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 29-05-2012

Acts Referred:

Citation : (2012) 05 DEL CK 0415

Hon'ble Judges : Sudershan Kumar Misra, J;Anil Kumar, J

Bench : Division Bench

Advocate : R.K. Saini and Mr. Vikram Saini, for the Appellant; Barkha Babbar, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner has sought the quashing of the action on the part of the respondents declining to conduct a Review Medical Board/ examination of the petitioner after the appeal was filed by him against the decision of the medical Board declaring him medically unfit on account of the petitioner having "Leukodermia", a cutaneous condition, an acquired condition with localized loss of pigmentation of the skin that may occur after any number of inflammatory skin conditions, burns, intralesional steroid injections, postdermabrasion. He has also sought a writ of mandamus directing the respondents to hold a Review Medical Board/examination and if found fit to appoint him to the appropriate post. Brief facts to comprehend the disputes raised by the petitioner are that the petitioner had applied for recruitment as Head Constable (Min.) in the Border Security Force in response to letter dated October, 2011 issued by the Commandant, 25th Bn., BSF, Chhawla Camp, New Delhi.

2. Thereafter, the petitioner appeared for the medical examination on 28th November, 2011 in which he was declared medically unfit on the ground of having "Leucoderma" and he was issued a memorandum dated 28th November, 2011. Memorandum dated 28th November, 2011 conveyed to the petitioner reason for his medical unfitness on account of having Leucoderma. The petitioner

was also given an option to file an appeal within a period of 15 days after obtaining the requisite medical fitness certificate from a medical practitioner (specialist in concerned field) that the diagnosis of the petitioner having "Leucoderma" is on account of error of judgment.

3. According to the petitioner, he obtained a medical fitness certificate from a medical practitioner who had examined the petitioner at PGIMER, R.M.L Hospital, New Delhi on 1st December, 2011. In the said certificate though the medical specialist opined that Leucoderma in the case of the petitioner appears to be on account of an error of judgment, however, after examining him it was also stipulated by the medical specialist that the petitioner is having Linecur stable vitiligo over side of chest disease, which is a localized change. Vitiligo is a skin condition in which there is a loss of brown color (pigment) from areas of skin, resulting in irregular white patches that feel like normal skin.

4. The plea of the petitioner is that though he had submitted his request for a Review Medical Board with the specialist certificate, however, his request for the Review appeal Medical Board was declined on the ground that the medical certificate issued by Civil Medical Practitioner did not indicate that the decision of the BSF Medical Board diagnosing the petitioner having Leucoderma was on account of error of judgment. The petitioner has contended that the mere perusal of the medical fitness certificate obtained by the petitioner negates the plea taken by the respondent that the medical certificate was not given in accordance with the proforma, because the medical certificate in question clearly stipulated that the "Leucoderma" as has been opined by the Medical Board was on account of an error of judgment.

5. The learned counsel for the respondents who appears on advance notice has refuted the pleas and contentions of the petitioner. The learned counsel has pointed out the rejection letter dated 4th April, 2012 categorically stipulated that the appeal is available only against a possible error of judgment. He contended that that by mere recording an opinion that the "Leucoderma" was on account of error of judgment is sufficient for the petitioner to claim a review medical examination as the certificate produced by the petitioner itself disclosed that the petitioner suffers from a skin disease, Linecur stable vitiligo which makes the petitioner medically unfit. In the circumstances, it is contended that though the certificate of specialist produced by the petitioner though stated that there was an error of judgment in opining that the petitioner suffer from "Leucoderma", however the certificate produced by the petitioner itself endorses that the petitioner is suffering from another similar skin disease, Vitiligo in which there is a loss of brown color (pigment) from areas of skin, resulting in irregular white patches that feel like normal skin. If the petitioner's certificate stipulates that the petitioner is suffering from another type of "skin disease", the petitioner cannot claim that he should be subject to Review Medical Board in order to ascertain his medical fitness as even according to the medical certificate produced by him, he has skin disease which makes him medically unfit.

6. This Court has heard the learned counsel for the parties. This is not disputed that the petitioner produced a medical certificate wherein it is stipulated that the Leucoderma as opined by the Medical Board of the respondent was on account of an error of judgment, however, the same medical certificate also stipulates that the petitioner is suffering from another skin disease. Though the petitioner's certificate does qualify the Vitiligo as localized, however, even such a localized Linecur stable vitiligo over side of chest disease does not make the petitioner medically fit according to the respondent's standards. The learned counsel for the petitioner is unable to show that a person having Linecur stable vitiligo over side of chest disease, a localized disease which is a form of skin disease will be medically fit. If the certificate obtained by the petitioner from the specialist opines that the petitioner is suffering from skin disease, then the petitioner cannot claim that he should be medically examined by a "Review Medical Board" to ascertain his medical fitness as his own certificate shows that he is medically unfit. For these reasons stated hereinbefore and in the totality of facts and circumstances, there are no grounds to interfere with the decision of the respondents holding the petitioner to be medically unfit for the post of Head Constable (Min.) in BSF and declining to hold a Review Medical Board. The writ petition, in the facts and circumstances, is without any merit and it is, therefore, dismissed.