

(2021) 10 DEL CK 0091

In the Delhi High Court

Case No : Civil Writ Petition No. 11555 Of 2021, Civil Miscellaneous No. 35656-35657 Of 2021

Jairaj Prajapat

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 08-10-2021

Acts Referred:

Citation : (2021) 10 DEL CK 0091

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Siddharth Mittal, Prabhat Kumar, Anurag Ahluwalia

Final Decision : Dismissed

Judgement

Manmohan, J

CM APPL. 35657/2021

Allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

WPC 11555/2021 & CM APPL. 35656/2021

1. Present writ petition has been filed seeking direction to the Respondents to re-examine and re-conduct medical test of the Petitioner under the supervision of an independent Medical Board having independent doctor or re-examine the Petitioner at R & R Hospital, New Delhi or AIIMS, New Delhi.

2. Learned counsel for the Petitioner states that the Petitioner had earlier preferred a writ petition challenging the arbitrary act of the Respondents in conducting the Appeal Medical Board and this Court vide order dated 1st September, 2021 had disposed of the petition with a direction to the Respondents to conduct a fresh medical examination by the Review Medical Board.

3. He states that the Petitioner duly appeared before Review Medical Board on 17th September 2021 where the attitude of the Respondents was hostile towards the Petitioner. He states that the Petitioner was then referred to AFCME where he was made to sit in a chilled air conditioned room from 10.00 am to 12.30 pm and thereafter immediately his BP and ECG were recorded. He states that low temperature results in increase of blood pressure and the Respondents knowingly adopted the said procedure to ensure that the Petitioner is unable to pass the medical examination. He emphasises that in the earlier test, blood pressure of the petitioner had been found within the normal range.

4. It is settled law that this Court examines the decision making process and not the decision itself. In the present case, the matter had been remanded to the Review Medical Board so that the Respondents could conduct another ECG of the petitioner. In the opinion of this Court, the direction to conduct a fresh ECG would encompass the direction to re-examine the blood pressure of the petitioner.

5. The allegation that the Petitioner was made to sit in a chilled air conditioned room for two hours does not impress this Court because if the Petitioner had been successful in his medical test, he could have been posted anywhere in India including Ladakh, where the temperature in winters goes below minus 20 degree. It is also pertinent to mention that no allegation of malafide has been made against any particular officer of the Respondents.

6. Consequently, as in the present case, the Petitioner has been re-examined by the Appeal/Review Medical Board, this Court is of the view that no further interference is called for in writ jurisdiction.

7. Accordingly, the present writ petition along with pending application is dismissed.