
(2018) 07 P&H CK 0223

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11210 Of 2018

Prince Kumar

APPELLANT

Vs

Union of India And Others

RESPONDENT

Date of Decision : 31-07-2018

Acts Referred:

Recruitment Directive for Recruitment of Junior Comissioned Officers and Other Ranks
2014 — Rule 248
Constitution of India, 1950 — Article 226, 227

Citation : (2018) 07 P&H CK 0223

Hon'ble Judges : Shekher Dhawan, J

Bench : Single Bench

Advocate : Rakesh Bakshi, Ashish Aggarwal

Final Decision : Dismissed

Judgement

1. Present petition under Article 226/227 of the Constitution of India has been filed by petitioner-Prince Kumar, seeking a writ of mandamus to direct the respondents to re-conduct his medical examination and allow him to join Indian Army as Soldier General Duty in view of medical reports Annexure-P3 to P5 whereby he was declared fit by PGIMER, Chandigarh, to perform any kind of duties.

2. Facts relevant for the purpose of decision of present writ petition; that pursuant to an advertisement for recruitment of Soldier General Duty (All Arms) for Indian Army, the petitioner applied for the same and was issued admit card (Annexure-P1). The petitioner qualified physical test held on 08.04.2018. After conduct of physical test, medical examination was conducted on 09.04.2018 wherein one small dot was detected on the external boundary of the Cornea of right eye of the petitioner, where the black portion of eye meets with the white portion of the eye, as a result of the same, the petitioner could not clear the medical examination and he was referred to Military Hospital, Ambala, where also, the petitioner could not clear the medical examination. Thereafter, the

petitioner got himself examined medically from two private doctors and he was declared medically fit vide Annexure-P3 and P4. To the similar effect is the report of PGIMER, Chandigarh dated 24.04.2018 (Annexure-P5), whereby the petitioner was declared medically fit. On these basis, the petitioner has sought directions to the respondents to re-conduct his medical examination and to allow him to join Indian Army.

3. In their short reply, the respondents have taken a stand that the petitioner was detected having corneal opacity measuring 2mm x 2mm paracentral to pupil in both eyes which could have been due to degenerative disease or as a sequence of infective etiology in particular viral infection.

4. Learned counsel for the parties have advanced their respective arguments in the above factual terms. In addition, learned counsel representing the respondents submitted that as per Rule 248 of Recruitment Directive for Recruitment of Junior Comissioned Officers and other Ranks 2014 (hereinafter referred to as "2014 Rules"), after the review at the Appeal Medical Board, the candidate will have no right for further review/re-medical. All candidates who are found unfit by team of MOs and SRMO and endorsed unfit by specialist at designated hospitals are debarred from participation in future rallies. He further contended that in the absence of challenge to Rule 248 of 2014 Rules, the petitioner cannot seek re-conduct of the medical examination.

5. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that the petitioner was not found medically fit and then he was referred to the Military Hospital, Ambala, where again he could not clear the medical examination. As per Rule 248 of 2014 Rules, after the review at the Appeal Medical Board, the candidate will have no right for further review/re-medical. All candidates who are found unfit by team of MOs and SRMO and endorsed unfit by specialist at designated hospitals are debarred from participation in future rallies.

6. The petitioner has not challenged Rule 248 of 2014 Rules, as such the present writ petition is not maintainable and stands dismissed.