
(2012) 01 DEL CK 0192

In the Delhi High Court

Case No : Writ Petition (C) No. 316 of 2012 and C.M. No. 669 of 2012

Rohit Gautam

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 16-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0192

Hon'ble Judges : J.R. Midha, J;Anil Kumar, J

Bench : Division Bench

Advocate : Vishwendra Verma and Mr. Ganesh Kumar, for the Appellant;
Sandeep Khatri, Advocate for Mr. Baldev Malik, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner has sought a direction to declare him successful for recruitment to the post of Constable (GD), CAPF (s) for the year 2011-12 and to follow the results of the medical examination of the petitioner conducted by the District Hospital in appeal and the medical fitness certificate dated 9th August, 2011 issued by the concerned hospital.

2. The petitioner had applied for the post of Constable under the notification for recruitment of Constable (GD), CAPF (s) for the year 2011-12 by the Staff Selection Commission. The petitioner appeared in the written examination and the result was declared in July, 2011 and petitioner was declared to have qualified the written examination.

3. Thereafter the petitioner was sent for the physical standard test and physical efficiency test. According to the petitioner he qualified even the physical test and physical efficiency test. Thereafter the petitioner had to undergo a medical examination and he appeared on 6th August, 2011 for the medical examination for combined recruitment of Constable (GD) in CAPF (s) at CISF, NHCC, Saket, New Delhi.

4. Pursuant to the examination, the medical board declared the petitioner unfit

on account of the following reasons:-

--Vitiligo, lucodermoil patches over both lower limbs, elbows and profuse---

Petitioner was given an option to file an appeal against the finding of the medical examination and to apply for a review medical examination after obtaining the necessary medical certificate from the medical practitioner as per Form No. CAPFs Constable (GD)/3. The request for the review medical board had to reach the respondents within a period of 15 days from the date of the medical examination that is by 24th August, 2011.

5. The petitioner, therefore, filed an appeal along with a medical fitness certificate obtained by the petitioner from Dr. Satya Singh, Senior Consultant, District Hospital, Bijour stipulating that the petitioner is medically fit and holding that the opinion that the petitioner suffers from Vitiligo, lucodermoil patches over both lower limbs, elbows and profuse is on account of an error of judgment. Pursuant to the request of the petitioner for the review medical examination the petitioner was examined on 15th October, 2011 by a medical board of three doctors. The review medical board on the basis of the opinion of the skin specialist, Safdarjung Hospital also declared the petitioner unfit on account of "Vitiligo, lucodermoil patches over both lower limbs, elbows and profuse". Result of the review medical examination was also given to the petitioner and he countersigned the same in token of receiving the copy thereof. The petitioner, however, has only filed a copy of the OPD slip of V.M.M.C and Safdarjung Hospital in the present writ petition.

6. On 15th October, 2011 the petitioner was taken to Safdarjung Hospital by the CISF Personnel, who allegedly told the concerned doctors that the petitioner is suffering from "Vitiligo" and also showed the proceedings of the medical board conducted by the respondents and therefore, according to the allegations of the petitioner, only a prescription had been given to the petitioner without examining the petitioner

7. According to the petitioner the concerned personnel had told the petitioner that the review is only a formality and that the petitioner's appeal will be finally considered by the medical board and thus the petitioner did not say anything to the personnel of the respondents or the doctor except that he is not suffering from any problem.

8. The petitioner also relied on the recruitment process conducted by the Uttar Pradesh Police in respect of the petitioner in the year 2009 by application No.125053 in which for selection to the said force the petitioner was declared physically fit in the medical examination conducted by the Uttar Pradesh Police on 19th December, 2009.

9. According to the petitioner all the forces/paramilitary forces/police have the same physical examination test as well as medical examination to ascertain the eligibility and suitability of the candidate. The petitioner has thus contended that

two authorities have declared the petitioner medically fit whereas the CISF Medical Board and review medical board has declared the petitioner unfit. In the circumstances it is contended that there is no reason to declare the petitioner medically unfit and that he is entitled for a declaration that he is medically fit and that he has to be declared successful for selection to the post of Constable (GD), CAPF (s).

10. The learned counsel for the respondents, Sh. Sandeep Khatri who has appeared on advance notice has produced the result of the review medical examination of the petitioner. Perusal of the same reveals that it bears the signatures of the petitioner, as the result of review medical examination was given to the petitioner. Therefore the plea of the learned counsel for the petitioner that the result of the review medical examination was not given to the petitioner cannot be accepted in the facts and circumstances. The plea that the prescription was issued by the doctors of the Safdarjung Hospital diagnosing the petitioner as suffering from "Vitiligo, lucodermoil patches over both lower limbs, elbows and profuse" without examining him and prescribing only medicines and treatment also cannot be accepted and it is an afterthought.

11. The learned counsel for the petitioner has also failed to disclose any cogent reasons as to why the petitioner after receiving the result of the review medical examination which was counter signed by him in token of receipt of the result had not produced the same and had not disclosed the same in the writ petition. The petitioner in the facts and circumstances has concealed the material facts declaring the petitioner medically unfit in the review medical examination.

12. The findings of the medical board and review medical board cannot be refuted by the petitioner on the basis of the admission form with an endorsement by the Uttar Pradesh Police for the year 2009. No malafide has been attributed by the petitioner against the respondents. The petitioner though has contended that the doctors at the Safdarjung Hospital had prescribed him medicine and treatment for Vitiligo, however, it has not been alleged that the petitioner is not taking the medicine prescribed and following the treatment advised to him.

13. This cannot be disputed that the medical board of the respondents who examined the petitioner at the first instance declared him medically unfit, which was substantiated by the review medical board consisting of experts and the skin specialist. Their opinion has to be given due weightage and value and such opinions of the medical boards have to be given primacy over the medical opinion obtained by the petitioner from the District Hospital, Bijnour.

14. It is also no more res integra that even when a different medical opinion is available, the Court should be slow in interfering with the opinion of the medical board and the review medical board of the respondents and substituting its own opinion with the opinion of the medical board.

15. In the totality of the facts and circumstances and the reasons indicated hereinabove, the petitioner is not entitled for a declaration that he is medically fit

and consequently the petitioner is not entitled for an order directing the respondents to select him for the post of Constable (GD), CAPF (s) for the year 2011-12.

16. The writ petition is without any merit and it is, therefore, dismissed. The application of the petitioner seeking direction to the respondents to keep one post vacant for the petitioner is also dismissed.