

Saurabh Kumar Sharma vs Union Of India And Another on 27 March, 2025

Author: Ajit Kumar

Bench: Ajit Kumar

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:43936

Court No. - 4

Case :- WRIT - A No. - 1131 of 2025

Petitioner :- Saurabh Kumar Sharma

Respondent :- Union Of India And Another

Counsel for Petitioner :- Saurabh Pandey, Suresh Chandra Pandey

Counsel for Respondent :- Sushil Kumar Mishra, A.S.G.I., Rajesh Tripathi

Hon'ble Ajit Kumar, J.

1. Heard learned counsel for the parties.

2. Petitioner who has been applicant in CentrtaI Armed Police Forces (Assistant Commandants) Examination, 2024, had been declared unfit initially in first medical examination conducted on the ground of "Surgical scars over abdomen" which needed further evaluation and thereafter again upon a review medical he was found unfit for "Gd II Hydronephrosis in a Kco post Pyeloplasty". Thus, he stood declared medically unfit even in the review medical examination. It is now submitted that as per medical examination report he was found unfit and, therefore, as per the guidelines and the norms for the medical fitness prescribed for, he would come within the range for the purposes of

selection.

3. Counsel for the petitioner has relied upon order of this Court passed in Writ-A No.11215 of 2019 (Gajendra Rav vs. State of UP & ors) dated 01.11.2019. He has placed reliance upon a judgement of Delhi High Court in the case of Peeyush Yadav vs. Union of India Through Secretary & ors decided on 17th December, 2021 and has also relied upon judgment of Rajasthan High Court in the case of Ashish Kumar vs. Union of India & ors decided on 12th March, 2018.

4. Per contra, it is argued by learned counsel appearing for the respondents submits that any medical examination voluntarily done by the petitioner from any private hospital or government hospital will hardly have any bearing upon the medical and review medical tests held/ conducted by a duly constituted board which consisted of expert doctors.

5. Counsel for the respondent submits that law is well settled that review medical examination done by the expert doctors of the department cannot be doubted on this ground on the basis of a third party report.

6. Having heard learned counsel for the respective parties, I find that once the review medical examination has been held after the first medical examination, then there is no question of this Court exercising power over and above the opinion rendered by the review medical board that consisted of expert doctors. This Court is not possessed with requisite expertise in the medical field so as to sit as an appellate authority over and above the opinion rendered by the review medical board. In the case of Vivek Kumar vs. State of UP & ors passed in special Appeal Defective No.117 of 2020, the Division Bench of this Court has held that thus:

"11. In a case where a recruitment process has been carried out as per prescribed statutory rules whereunder a procedure has been prescribed for testing the medical fitness of candidates by a duly constituted Medical Board, the report of the Medical Board is not to be normally interfered with, and that too, solely on the basis of a claim sought to be set up by a candidate on the basis of some subsequent report(s) procured by him from a private practitioner(s).

12. It is not the case of the petitioner that the decision of the Medical Board was arbitrary, capricious or not in accordance with the procedure under the relevant statutory recruitment rules. "

7. Even otherwise, law is well settled that "unless the opinion of the Medical Board or Review Medical Board is erroneous or capricious or vague and smacks of malafide, the Court should refrain from interfering with the opinion of Medical Board and Review Medical Board which is a body constituted of experts to assess the fitness of candidate as per the norms and standards prescribed in respect of fitness of a candidate who is supposed to work in the police force." [Union of India v. Parul Punia, 2016 (2) ADJ 14]. This judgment has been followed by a coordinate bench in the case of Ankit Kumar v. State of U.P. & Ors (Writ - A No. 5668 of 2021, decided on 03.08.2001). Recently in the case of Shahbaj Khan v. Union of India & Ors (Writ - A No. 15248 of 2023) decided on

13.07.2023, I have referred to another later judgment of Division Bench in the case of Vivek Kumar v. State of U.P. & Ors passed in Special Appeal (Defective) No. 117 of 2020, wherein it had been observed that "In a case where a recruitment process has been carried out as per prescribed statutory rules whereunder a procedure has been prescribed for testing the medical fitness of candidates by a duly constituted Medical Board, the report of the Medical Board is not to be normally interfered with, and that too, solely on the basis of a claim sought to be set up by a candidate on the basis of some subsequent report(s) procured by him from a private practitioner(s). It is not the case of the petitioner that the decision of the Medical Board was arbitrary, capricious or not in accordance with the procedure under the relevant statutory recruitment rules." Even I have followed this legal view recently in the case of Miss Neha v. State of U.P. & 4 Ors (Writ - A No. 10905 of 2023).

8. The judgment in the case of Union of India v Ashish Kumar 2019 SCC OnLine Raj 3679 cited by learned counsel for the petitioner is distinguishable on facts. In said case, there was difference in opinion of first medical examination report and review medical examination report and so learned Single Judge had directed for third medical examination, against which intra court appeal was dismissed by the Division bench. Here in the instant case, petitioner has been found to be medically unfit due to "Surgical scars over abdomen" and "Gd II Hydronephrosis in a Kco post Pyeloplasty" in the first medical test and review medical test respectively and hence said judgment is of no help to the petitioner. Similarly again, authority cited in the case of Peeyush Yadav (supra) by the Delhi High Court, is also distinguishable on facts because in the said case, the candidate was referred to Jawahar Lal Nehru Hospital, Ajmer by the officers themselves for opinion from Orthopedic on Cubitus Valgus and right 4th toe deformity for which petitioner was declared unfit and JLN hospital, Ajmer had found him to be orthopedically fit. There is no such fact involved in the present case and hence judgment of Delhi High Court is also of no help of the petitioner.

9. I do not find that in any of the judgments cited by learned counsel for the petitioner legal position as discussed by the Supreme Court and this High Court in their judgments, have at all been discussed.

10. In view of the above, I do not find it to be a fit case to grant indulgence. Petition lacks merit and is, accordingly, dismissed.

Order Date :- 27.3.2025 Deepika