

Staff Selection Commission & Anr. vs Shahjeb Ali on 3 April, 2025

Author: Navin Chawla

Bench: Navin Chawla

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 03.04.2025

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W.P.(C) 4265/2025

STAFF SELECTION COMMISSION & ANR.Petitioners

Through: Mr. Premtosh K. Mishra, CGS
with Mr. Manish Vashist & M
Sanya Kalsi, Advs.

versus

SHAHJEB ALI

.....Respondent

Through: Ms. Esha Mazumdar & Ms.
Muskan Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 19711/2025 (Exemption)

1. Allowed, subject to all just exceptions. W.P.(C) 4265/2025 & CM APPL. 19710/2025 (Stay)

2. This petition has been filed by the petitioner, challenging the Order dated 09.08.2024 passed by the learned Central Administrative Tribunal (PB), New Delhi (hereinafter referred to as 'Tribunal') in Original Application No. 3147/2024 (O.A.) titled Staff Selection Commission & Anr. v. Sahajeb Ali, whereby the learned Tribunal allowed the said O.A. filed by the respondent herein with the following directions:

"10. Keeping in view the aforesaid decision passed by the co-ordinate bench of this Tribunal in the aforesaid OA, we cannot take a divergent view in the matter. Accordingly, the present OA is also disposed of with a direction to the competent authority amongst the respondents to conduct a fresh medical examination of the applicant by way of constituting an appropriate medical board in any government hospital except the hospital which has already conducted the initial and the review medical examination. Appropriate orders with respect to the candidature of the applicant on the basis of the outcome of such an independent/fresh medical examination be passed thereafter under intimation to the applicant.

11. The aforesaid directions shall be complied with within a period of six weeks from the date of receipt of a certified copy of this order. In the event of the applicant is being declared medically fit and subject to his meeting other criteria, he shall be given appointment forthwith. The applicant, in such an eventuality, shall also be entitled to grant of all consequential benefits, however, strictly on notional basis. No costs."

3. The respondent, having applied for the post of Constable (Exe.) pursuant to the advertisement (F. No. HQ-PPI03/15/2023-PP) dated 01.09.2023, and having cleared all the different stages of the selection process, had appeared for a Detailed Medical Examination (DME), wherein he was declared 'unfit' for recruitment, with the following observation:

"Carrying Angle - Right - 23 degree and Bilateral CP angles are blunted likely thickening"

4. Aggrieved thereby, the respondent requested for an examination by the Review Medical Board.

5. The Review Medical Examination Board, vide its report dated 23.01.2024, also declared the respondent 'unfit' for appointment, with the following observation:

"Unfit: Carrying Angle - Right side-23 degree."

6. Thereafter, the respondent got himself examined at the District Combined Hospital, Baghpat, on 22.02.2024, where he was declared medically 'fit', with the following observation:

"Carrying Angle - RT Elbow-RT-16° Carrying Angle - LT Elbow- 16°."

7. Armed with the above, the respondent filed the above O.A., which, as noted hereinabove, has been allowed by the learned Tribunal.

8. The learned counsel for the petitioner submits that the learned Tribunal has erred in interfering with the consistent opinion of the Medical Experts in the DME and the RME with respect to the unfitness of the respondent due to the Carrying Angle of his Right Hand.

9. On the other hand, the learned counsel for the respondent, who appeared on advance notice, submits that neither the DME nor the RME contained an Orthopaedic Specialist, nor was the respondent referred to a specialist for an expert opinion.

10. She submits that, therefore, the learned Tribunal has rightly directed the re-examination of the respondent. She places reliance on the Judgement of this Court in Staff Selection Commission & Ors. v. Aman Singh, 2024 SCC OnLine Del 7600.

11. We have considered the submissions made by the learned counsels for the parties.

12. In Aman Singh (supra), this Court, while laying down the general principles applicable to a challenge to the medical opinions in a selection process, inter alia, held as under:

"10.38 In our considered opinion, the following principles would apply:

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(c) If the condition is one which requires a specialist opinion, and there is no specialist on the Boards which have examined the candidate, a case for interference is made out.

In this, however, the Court must be satisfied that the condition is one which requires examination by a specialist. One may differentiate, for example, the existence of a haemorrhoid or a skin lesion which is apparent to any doctor who sees the candidate, with an internal orthopaedic deformity, which may require radiographic examination and analysis, or an ophthalmological impairment. Where the existence of a medical condition which ordinarily would require a specialist for assessment is certified only by Medical Boards which do not include any such specialist, the Court would be justified in directing a fresh examination of the candidate by a specialist, or a Board which includes a specialist. This would be all the more so if the candidate has himself contacted a specialist who has opined in his favour."

13. In the present case, from the record of the DME or the RME, it is not becoming evident that either of these Boards included a Specialist Orthopaedic. In fact, the learned counsel for the respondent has drawn our attention to the Order dated 16.01.2024, issued by the Additional DG (Medical) CAPFs, NSG & AR, Ministry of Home Affairs, GoI, regarding the constitution of the Medical Board, which clearly shows that an Orthopaedic Specialist was not a part of either Board.

14. It is also not disputed that the respondent was never referred to a specialist orthopaedic for an expert opinion on the carrying angle.

15. Applying the principle laid down by this Court in Aman Singh (supra), therefore, we find no infirmity in the impugned order passed by the learned Tribunal.

16. The petition along with the pending application is, accordingly, dismissed.

NAVIN CHAWLA, J RENU BHATNAGAR, J APRIL 3, 2025/Pr/M/DG Click here to check corrigendum, if any