

Staff Selection Commission And Anr vs Vijay Kumar on 2 April, 2025

Author: Navin Chawla

Bench: Navin Chawla

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 02.04.2025

+ W.P.(C) 4173/2025
STAFF SELECTION COMMISSION AND ANR

.....Petitioner

Through: Mr.Ashish K. Dixit, CGSC,
Mr.Shivam Tiwari, Ms.Urmila
Sharma, Ms.Deepika Kalra,
Ms.Venni Kakkar, Advs.

versus

VIJAY KUMAR

.....Respondent

Through: Ms. Esha Mazumdar, Adv

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 19351/2025 (Exemption)

1. Allowed, subject to all just exceptions.

2. For the reasons stated in the application, the petitioners are permitted to file lengthy synopsis and list of dates.

3. The application stands disposed of.

W.P.(C) 4173/2025 and CM APPL. 19352/2025, 19354/2025

4. This petition has been filed, challenging the Order dated 12.09.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'learned Tribunal'), setting aside the finding of the Review Medical Board which declared the respondent 'unfit' for appointment, and further directing a fresh Review Medical Board to be constituted within

a period of two weeks with at least four days advance notice to the respondent.

5. Briefly stated, the respondent had applied for appointment to the post of Constable (Executive), pursuant to the advertisement issued by the petitioners for the post of Constable (Executive) Male & Female in Delhi Police Examination-2023 issued on 01.09.2023.

6. Having cleared the various stages of selection, he appeared before the Detailed Medical Examination (in short, 'DME'). In the DME, however, he was declared 'unfit' for appointment with the following remarks:

"1. Cubitus Valgus

2. <14 Dental Points

3. HTN Test 170/100, 105/100, 173/114"

7. Aggrieved of the above report, the petitioners applied for the Review Medical Examination (in short, 'RME'). The RME, however, declared the respondent 'unfit' for appointment on account of "Grade I Diastolic Dysfunction, Trace TR, and Hypertension".

8. The learned counsel for the petitioners submits that the DME and RME, both, found the respondent suffering from 'Hypertension' and, hence, the learned Tribunal has clearly erred in directing further re-medical examination of the respondent.

9. He further submits that before declaring the respondent 'unfit' for appointment, the respondent was also referred to the IPSC Diagnostic and Images Centre ('IPSC') for ECG and Echo-Doppler test. In the report dated 02.02.2024, the said Diagnostic Centre informed that the respondent is suffering from 'Grade I DD and Trace TR (RVSP-9mm HG)'. He submits that therefore, the RME, vide its Impugned Report dated 02.02.2024, declared the respondent 'unfit' for appointment. He submits that as the report was based on a clinical study, it could not have been interfered with by the learned Tribunal.

10. On the other hand, the learned counsel for the respondent, who appears on advance notice of this petition, submits that as would be evident from the above, the DME had declared the respondent 'unfit' for appointment on the basis of 'Cubitus Valgus', '<14 Dental Points' and 'Hypertension'. She submits that barring the ground of 'Hypertension', none of the other grounds were found sustainable by RME and rather new grounds of 'Grade -I DD' and 'Trace TR (RSVP-9mm HG)' were cited as grounds for rejection of candidature of the respondent.

11. She submits that as far as the ground of 'Hypertension' is concerned, the readings were taken only thrice, as is reflected from the DME as also from the Instructions dated 25.01.2024 issued by the Composite Hospital, CRPF. She submits that for declaring a candidate 'unfit' for appointment on the ground of 'Hypertension', the candidate should be observed at least over a period of three days, as sometimes readings get affected by the 'white coat syndrome'.

12. As far as the finding of the 'Grade-I DD and Trace TR (RVSP-

9mm HG)' are concerned, she submits that there is a contradiction between two reports of the IPSC, inasmuch as in an earlier report dated 30.01.2024, there was no finding of the respondent suffering from 'Grade-I DD'. She submits that even for the Trace TR, the RVSP was found as 13 mm HG as against the 9 mm HG found in the report dated 02.02.2024.

13. Placing reliance on the Judgment dated 24.10.2024 of this Court in W.P. (C) 13748/2024, titled Staff Selection Commission v. Deepak, she submits that in similar circumstances, this Court has dismissed the challenge of the petitioner and upheld the direction of the learned Tribunal to have the re-medical examination of the respondent therein conducted.

14. We have considered the submissions of the learned counsels for the parties.

15. At the outset, we may note that the present petition has been filed with a delay of almost six months. The learned Tribunal, as noted hereinabove, had directed the petitioners to have the respondent medically re-examined within a period of two weeks of the said Order. The petitioners have been unable to explain the delay in filing the present petition. The petition is, therefore, liable to be dismissed on the ground of delay alone.

16. Even otherwise, on the merits of the petition, we find no case is to be made out by the petitioners in challenge to the Impugned Order.

17. As is evident from the submissions of the learned counsel for the respondent, and the documents placed on record, the Blood Pressure of the respondent was measured only three times and he was declared 'unfit' on the basis of 'Hypertension' amongst other grounds. This Court has in a catena of Judgments held that before declaring a candidate 'unfit' on the ground of 'Hypertension', the candidate should ideally be admitted and his Blood Pressure observed over a period of three days so as to rule out the 'white coat syndrome'. We may make reference in this regard to the Judgments of this Court in Staff Selection Commission and Anr. v. Mukeem Khan & Anr., 2025:DHC:350-DB and Staff Selection Commission and Anr. v. Rohanpal Singh, 2025:DHC:1286-DB.

18. As far as the ground of the respondent suffering from 'Grade-I DD and Trace TR (RVSP-9mm HG)' is concerned, not only was this ground not stated in the DME for rejecting the candidature of the respondent, but also there are two reports of IPSC, which may be said to be inconsistent with each other. We do not wish to comment on these reports as we are not medical experts.

19. Be that as it may, the learned Tribunal has merely directed the respondent to be re-examined to determine the medical suitability for the appointment. In similar circumstances, in Staff Selection Commission and Anr. v. Deepak (supra), a Coordinate Bench of this Court has held as under:

"18. The DME, in this case, certified the respondent Deepak as unfit for appointment on account of (i) elbow varus deformity, (ii) hypertension and (iii) chronic skin infection over buttock". The RME did not find any evidence of infirmities (i) and (iii),

but disqualified the respondent from appointment on account of (i) hypertension and (ii) trace TR81, found on carrying out 2D echocardiogram. There is, therefore, in this case, clear dissonance between the findings of the DME and the RME. The only grounds on which the respondent Deepak was ultimately found unfit for appointment were hypertension and trace TR. The two other infirmities noted in the DME, of elbow deformity and skin infection over the buttock, were not found in the RME. They, therefore, are not of consequence, as they have not operated to disqualify the respondent from appointment. The finding of trace TR figured only in the report of the RME. If this finding were ignored, it may be arguable as to whether, solely on account of hypertension, the respondent would have been regarded as unfit for appointment.

19. As in this case, there is a difference of opinion between the DME and the RME with respect to the existence of regurgitation and TR, we do not find it to be a fit case for interference with the decision of the learned Tribunal to refer the matter to a third Medical Board for a fresh medical examination.

20. We especially say so, because the respondent was found unfit for service not because he was merely suffering from hypertension but on the ground that he was suffering from hypertension along with TR. In the event that the finding of TR is not upheld by the Third Medical Board, it would have to be then examined whether, merely on the ground of hypertension, the respondent can be disqualified. We express no opinion thereon.

21. With the above comments, we uphold the decision of the learned Tribunal and dismiss this writ petition."

20. In view of the above, we find no merit in the present petition. The same is accordingly dismissed. However, we make it clear that in case in the fresh Review Medical Board examination, the respondent is again found to be 'unfit' for appointment for any of the reasons given by the RME, the result of the said report shall be binding on the respondent and there shall be no challenge thereto.

NAVIN CHAWLA, J RENU BHATNAGAR, J APRIL 2, 2025/Arya/IK Click here to check corrigendum, if any