

Staff Selection Commission & Anr. vs Bhavna on 4 April, 2025

Author: Navin Chawla

Bench: Navin Chawla

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 04.04.2025

+ W.P.(C) 4340/2025

STAFF SELECTION COMMISSION & ANR.Petitioners

Through: Ms.Saumya Tandon, CGSC,

Mr.Prakhar Mani Tripathi, Adv

versus

BHAVNA

.....Respondent

Through:

Ms. Meenu Sharma,

Ms.Vaishali Sulkhan, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 20070/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 4340/2025 and CM APPL. 20069/2025

2. This petition has been filed, challenging the Order dated 20.08.2024 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 and appropriate orders to be passed on the basis of the outcome of such fresh medical examination, within a period of twelve weeks of the petitioners receiving a certified copy of the Impugned Order.

3. 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 on 01.09.2023.

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

the remarks 'little finger of left hand amputated and hypertension (147/100mmhg)'.

5. Aggrieved thereof, the respondent appeared for the Review Medical Examination (in short, 'RME'). The RME, however, declared the respondent 'unfit' for appointment on account of 'absent distal Phalanx of left 5th digit'.

6. The learned counsel for the petitioners submits that the RME found the respondent suffering from 'Absent distal phalanx of left 5th digit' which is a major defect/deformity and would render the respondent 'unfit' to perform her duties, hence, the learned Tribunal has clearly erred in directing further re-medical examination of the respondent.

7. He further submits that before declaring the respondent 'unfit' for appointment, the respondent was also referred to the Asian Institute of Medical Sciences for an X-ray. In a report dated 24.01.2024, the said Institute informed that the respondent is suffering from 'Absent distal phalanx of left 5th digit'. He submits that therefore, the RME vide its Impugned Report dated 25.01.2024, declared the respondent 'unfit' for appointment. He submits that as the report being based on a clinical study, it could not have been interfered with by the learned Tribunal.

8. On the other hand, the learned counsel for the respondent, who appears on advance notice of this petition, submits that Clause 13.1 of the Advertisement requires the Medical Examination Board also to opine if the defect/deformity/disease suffered by a candidate is likely to interfere with the efficient performance of the duties by the candidate. She submits that in the present case, neither the DME nor the RME arrived at such a conclusion before declaring the respondent as 'unfit' for appointment.

9. Placing reliance on the Judgment of this Court in Staff Selection Commission & Ors. v. Ravi, 2024:DHC:8788-DB, she submits that it is only where the Medical Board forms the above opinion that a candidate can be disqualified from appointment.

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

11. At the outset, we may note that the present petition has been filed with a delay of more than six months. The learned Tribunal, as noted hereinabove, had directed the petitioners to have the respondent medically re-examined and appoint her if she is declared 'fit' within a period of twelve weeks of the said Impugned 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 and laches alone.

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

13. Clause 13.1 of the Advertisement reads as under:

"13.1 The candidates should be in sound state of health, free from defect/ deformity/ disease, vision 6/12 without glasses both eyes, free from colour blindness and without any correction like wearing glasses or surgery of any kind to improve visual acuity. Free from defect, deformity or disease likely to interfere with the efficient performance of the duties. No relaxation is allowed/ permissible to any category of candidates on this count."

(Emphasis supplied)

14. From the above, it would be evident that the Medical Board, if it detects the candidate to be suffering from a defect/deformity/disease, is also to further opine if such defect/deformity/disease is likely to interfere with the efficient performance of the duties by the candidate.

15. While there can be no dispute on the proposition that the consistent view of the Medical Board and the Review Medical Board is to be accorded due recognition and cannot be interfered with in a casual manner, specially keeping in view the fact that the Courts are not medical experts, at the same time, where the Medical Board has not opined on the above vital aspect, the candidate would require a further examination to opine on the same. We draw reference in this regard to the Judgment of this Court in Staff Selection Commission & Ors. v. Ravi (supra), which held as under:

"11. Though, therefore, on facts, Veena may not be fully applicable, we deem it appropriate, instead of entering into that thicket, to direct the petitioners to refer the matter once more to a Review Medical Board, for a specific opinion as to whether the condition of Dextrocardia, from which the respondent suffers, renders him incapable is "likely to interfere with the efficient performance of his duties" as Constable (Executive)."

16. In view of the above, we find no merit in the present petition. The same is accordingly dismissed. Pending application is also disposed as being infructuous.

17. However, we make it clear that in case in the fresh Review Medical Board the respondent is again found to be 'unfit' for appointment, 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 4, 2025/IK Click here to check corrigendum, if any