

HIGH COURT OF DELHI**Bench: Justices V. Kameswar Rao and Saurabh Banerjee****Date of Decision: 19th January 2024**

W.P.(C) 796/2024

CM APPL. 3432-3433/2024

AJAY BUDANIYA ...PETITIONER**VERSUS****UNION OF INDIA & ORS. ...RESPONDENTS****Legislation:**

Relevant guidelines and regulations for medical examinations in government recruitment processes

Subject: Petition challenging the Review Medical Examination Report declaring the petitioner unfit due to hypertension and tachycardia, and seeking reconstitution of the Medical Board.

Headnotes:

Medical Examination – Government Recruitment – Petition challenging Review Medical Examination Report dated 21.12.2023 declaring petitioner unfit due to hypertension and tachycardia – High Court noted failure to follow required regulations/guidelines for hospitalization and observation before final opinion – Set aside report – Directed reconstitution of Review Medical Board to re-examine petitioner in accordance with guidelines dated 31.05.2021 – Further action to follow based on new findings. [Paras 1-5]

Administrative Law – Compliance with Guidelines – Petitioner’s right to fair medical examination process in government recruitment – High Court emphasized necessity for adherence to procedural guidelines ensuring fairness – Directed fresh medical board examination with required

observation and hospitalization – Non-compliance with procedural guidelines leading to setting aside of previous report. [Paras 3-4]

Judicial Review – Medical Fitness – Court’s intervention in medical fitness assessments for government recruitment – Addressed procedural lapses in medical evaluations – Reinforced need for transparent and standardized medical review procedures. [Paras 3-5]

Decision:Held: Petition allowed – Report of Review Medical Board dated 21.12.2023 set aside – Fresh Review Medical Board to be constituted within two weeks – Petitioner to be given at least four days advance notice – If found fit, further action to be taken in accordance with rules – Petition disposed of. [Paras 4-5]

Referred Cases: None.

Representing Advocates:

For Petitioner: Mr. Pankaj Mehta, Mr. R. K. Mehta, Ms. Shweta Soni, Ms. Akansha Singh, Mr. Bhavya Kohli, Mr. Rohan Prakash

For Respondents: Mr. Manish Kumar, Sr. PC, Mr. Vedansh Anand, GP for UOI

V. KAMESWAR RAO, J. (ORAL)

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Allowed, subject to just exceptions.

Application disposed of.

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1. This petition has been filed by the petitioner with the following prayers:-

“i. Issue a writ order, or direction in the nature of mandamus or any other appropriate writ, thereby directing Respondent No.3 to quash the Review Medical Examination Report dated 21.12.2023; ii Issue a writ order, or

direction in the nature of mandamus or any other appropriate writ to Respondents to reconstitute the Review Medical Examination Board for the Petitioner in consonance with the applicable guidelines; iii. Issue a writ order, or direction in the nature of mandamus or any other appropriate writ to Respondent No.3 to take the opinion of concerned specialists or super specialists of Govt. Medical College and Hospital; iv. Issue a writ order, or direction in the nature of mandamus or any other appropriate writ to Respondent No.3 to call for the records of the Petitioner regarding the ECG and ECHO tests;

v. Pass any such/further orders or directions as this Hon'ble Court deems fit in the interest of justice."

2. In effect, the petitioner is challenging the Review Medical Examination Report dated December 21, 2023, whereby, the petitioner has been declared unfit on the ground that he is suffering from hypertension and tachycardia.

3. Mr. Manish Kumar appears for the respondents and submits that as in terms of orders passed by this Court in different petitions with regard to similar ailments, the petitioners therein have been referred to a further Review Medical Board and hence similar order can be passed in this petition. Noting the submission made and in view that the ground urged by the petitioner that as per the regulations / guidelines before a final opinion is given by the Review Medical Board, the candidate should have been hospitalised for observation and it is a conceded case that the said regulations / guidelines were not followed in this case, the report of Review Medical Board dated December 21, 2023 is set aside.

4. The respondents are directed to constitute a fresh Review Medical Board which shall examine the petitioner *inter alia* in accordance with the regulations / guidelines dated May 31, 2021. The Review Medical Board shall be constituted within two weeks from today and at least four days advance notice be issued to the petitioner.

5. It is made clear that, if the petitioner is found fit by the freshly constituted Review Medical Board, further action shall be taken in accordance with rules. It goes without saying, if the petitioner is aggrieved by any order passed to his prejudice, he shall seek such remedy as available in law. The petition is disposed of.

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Dismissed as infructuous.

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