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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 21st December, 2020**

+ **W.P.(C)10783/2020**

KM. PRIYANKA **Petitioner**

Through: Mr. A. K. Trivedi, Advocate

versus

UNION OF INDIA & ORS. **Respondents**

Through: Mr. T.P.Singh, Sr. Central Govt.
Counsel for Respondents/UOI

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

JUSTICE ASHA MENON

W.P.(C)10783/2020 & C.M.Appln.33829/2020 (of the petitioner for directions)

1. The petitioner is an aspirant to the post of Constable (G.D.) in the Central Armed Police Forces (CAPFs) and had applied for the said post pursuant to the advertisement dated 21st July, 2018, published in Employment News/Rozgar Samachar.

2. The petitioner appeared for the written test on 14th February,

2019 and qualified the written test. Subsequently, she appeared for the Physical Standard Test/Physical Efficiency Test (PST/PET) on 26th August, 2019 and was also successful in these tests. On 20th January, 2020, she was called for a medical examination. Unfortunately, she was declared medically unfit for “*Carrying Angle > 20° Both Side*”. She was issued a medical unfitness certificate of the same date, i.e. 20th January, 2020. She was granted a chance to file an appeal against this finding. Before filing the appeal, she was also required to obtain a medical certificate from a medical practitioner/specialist medical officer of a government district hospital.

3. The petitioner approached the specialist orthopaedic surgeon in the Bowring and Lady Curzon Hospital, Government of Karnataka, who, after conducting a thorough examination, declared the petitioner fit, observing that “*there is a bit Cubitus Valgus carrying angle < 20° (18°)*”.

4. On 26th October, 2020, the petitioner appeared before the Review Medical Board which again declared her unfit for the same reason. She questioned the conclusion of the Review Medical Board by submitting an application dated 30th October, 2020 to the competent authority in Central Reserve Police Force (CRPF), contending that there was no specialist in the Review Medical Board and that she had been wrongly declared unfit.

5. Further, in order to assure herself that she was not suffering from any defect, she got herself examined at Aster CMI Hospital,

Bangalore on 24th November, 2020. The specialist, Dr.D.Akshay Yadav examined her and concluded that the carrying angle was: “*right elbow 18° left elbow 19°*”. With a view to strengthen her claim, she also got herself examined at another hospital i.e. Columbia Asia in Bangalore, on 2nd December, 2020 where an X-ray was taken of her both elbows. Once again, the conclusion of the specialist was that there was “*mild cubital valgus seen bilaterally— Right: 18 and Left 19*”, i.e., less than 20° and the petitioner was fit.

6. It was argued by learned counsel for the petitioner, Sh. A.K.Trivedi, Advocate, that as per the “Uniform Guidelines for Medical Examination Test of Combined Recruitment of CT/GD in CAPFs/ARs”, one subject specialist had to be included in the Review Medical Board. These guidelines have been placed as Annexure P-10. However, when we asked, the learned counsel, the source of the information about the absence of a specialist on that Review Medical Board, no convincing answer was forthcoming. Though he sought some time to verify the same from the petitioner but was unable to explain as to what was her source of such information. We therefore do not deem it necessary to postpone the conclusion of this case to another day.

7. The learned counsel appearing on advance notice for the respondents CRPF had only this to submit that the CRPF had no role to play in the conduct of the medical examination, which had been conducted by the Border Security Force (BSF), and it had been unnecessarily made the party respondent to this petition.

8. We have on several occasions observed that the standard of physical fitness for the Armed Forces and the Police Forces is more stringent than for civilian employment. We have, in *Priti Yadav Vs. Union of India* 2020 SCC OnLine Del 951; *Jonu Tiwari Vs. Union of India* 2020 SCC OnLine Del 855; *Nishant Kumar Vs. Union of India* 2020 SCC OnLine Del 808 and *Sharvan Kumar Rai Vs. Union of India* 2020 SCC OnLine Del 924, held that once no *mala fides* are attributed and the doctors of the Forces who are well aware of the demands of duties of the Forces in the terrain in which the recruited personnel are required to work, have formed an opinion that a candidate is not medically fit for recruitment, opinion of private or other government doctors to the contrary cannot be accepted inasmuch as the recruited personnel are required to work for the Forces and not for the private doctors or the government hospitals and which medical professionals are unaware of the demands of the duties in the Forces. In fact, the case of *Priti Yadav (supra)* also related to ‘*cubital valgus*’. It is also to be noted that the specialists that the petitioner had consulted had also found that the petitioner suffered from ‘*cubital valgus*’ and therefore, the findings by the Medical Boards were not wrong.

9. What may seem as a minor difference in the assessment of the Civil doctors in comparison to the assessment of the Medical Boards, may blow up into a serious health condition during the course of service with the CAPFs. It is not in the interest of either the Police Forces or candidates that their medical problems are

brushed aside only on the plea that it was a question of employment. The general health of candidates would be permanently impacted due to the stress, both physical and mental, on account of these medical shortcomings. On the other hand, the government would be saddled with a Police Force where such personnel would seek soft postings because of their health conditions and low medical category. This would lead to dissatisfaction amongst the personnel in the Forces as some people, who ought not to have been taken into the Forces, would always benefit, whereas the others would be mostly faced with hard postings and duties.

10. The petitioner has availed of all opportunities to get a second opinion during the Appeal/Review Medical Board and there is no purpose left in getting a further medical examination conducted.

11. We therefore find no merit in the present case.

12. The petition is accordingly dismissed.

ASHA MENON, J.

RAJIV SAHAI ENDLAW, J.

DECEMBER 21, 2020

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