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

% *Date of decision: January 6, 2023*

+ W.P.(C) 17612/2022

GAURAV BAISOYA Petitioner

Through: Ms. Karishma Singh, Advocate
versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Thakur Virender Pratap Singh
Charak, Ms. Shubhra Parashar, Mr.
Pushpender Singh Charak, Ms.
Pinky Yadav, Mr. Kapil Gaur,
Advocates with Mr. Rattan Negi,
Dy. Commandar Coast Guard

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL.56340/2022 (exemption)

CM APPL.56341/2022 (exemption)

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

W.P.(C) 17612/2022 & CM APPL.56339/2022 (for interim relief)

3. Vide the present writ petition, the petitioner seeks directions to the respondents to carry out the medical examination of the petitioner again from an independent board of doctors including the specialist doctors for further completion of the medical examination of the petitioner and to keep the post vacant till the disposal of the present writ petition.

4. Learned counsel for petitioner submits that petitioner had applied for the post of Assistant Commandant in Coast Guard (Ministry of Defence). Petitioner qualified written test. Subsequently, on 20.08.2022, petitioner appeared before the Special Medical Board for medical examination and was declared unfit on account of “*COMPLEX CYSTIC LESION RT KIDNEY*”. Thereafter, petitioner appeared before Appellate Medical Board on 12.10.2022 and was declared unfit on account of “*RT PARAPELVIC CYST*”. On 03.11.2022, petitioner got examined himself at his own expenses at AIIMS, Delhi and his examination report is as under:

“Report-

ULTRASOUND ABDOMEN

Liver: Normal in size and echotexture. No focal lesion/IHBRD

Gall Bladder: Normal in wall thickness. No calculus seen.

CBD/PV: Normal in calibre

Pancreas: Normal in bulk and echotexture. MPD not dilated

Spleen: Normal in size and echotexture. No focal lesion seen.

Bilateral Kidneys: Normal in size and echotexture. No calculus/Hydronephrosis seen. There is a well defined anechoic lesion in mid-polar region of right kidney measuring 13.8 x 14.2 mm with regular margin with no e/o internal septations/calcification -s/o simple renal cyst

Urinary Bladder: Normal

No Free fluid seen

Impression:

Right simple renal conical cyst.

Diagnosis:-

Right simple renal conical cyst.”

5. Learned counsel for petitioner submits that petitioner was again declared unfit by the Review Medical Board on account of “*A 14X16X15.3mm Bosniak II cyst mid pole right kidney*” and the same was conveyed to the petitioner vide e-mail dated 16.12.2022 (Annexure P-1).

6. Further submitted that reports of Special Medical Board dated 20.08.2022, Appellate Medical Board dated 12.10.2022, Review Medical Board dated 16.12.2022 and AIIMS, Delhi dated 03.11.2022 are contradictory to each other.

7. Learned counsel for petitioner, on instructions, submits that let a specialist Board be constituted and petitioner be examined again.

8. In view of the above, without commenting on the opinion of the aforementioned reports, we hereby direct the In-charge of R&R Hospital, Delhi to constitute a Board of specialist doctors and examine the petitioner within three weeks from today.

9. It is agreed by the petitioner that the report of the R&R Hospital shall be final and binding and it will not be challenged further.

10. We hereby make it clear that in the report of R&R Hospital, Delhi, if the petitioner is found to be fit, he shall be allowed to join the selection process. However, if the report is negative then that will be final and binding upon the parties.

11. The petition is accordingly disposed of. Pending application also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 06, 2023/rk