

**COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

186.

OA 2021/2022

COM (I) Ravi Bhasker

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Applicant

Versus

Union of India & Ors.

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Respondents

For Applicant : Mr. Arvind Kumar, Advocate

For Respondents : Mr. Sudhir Kumar, Advocate

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
13.11.2024

The applicant invokes the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, challenging the tenability of orders Annexure A1 and A2, dated 29.07.2020 and 11.09.2020 respectively, whereby he was found ineligible for nomination to the post of Commissioned Officer in the Indian Navy due to not fulfilling the medical criteria prescribed for appointment to the post in question.

2. Facts in brief indicate that the applicant joined the Indian Navy on 03.02.2018. At that time, he underwent all the requisite medical, physical, and psychological tests, and the

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Competent Authority was satisfied with his performance. Consequently, he was appointed to the post of Trade COM TEL II. He completed the mandatory training for the prescribed period and was attested to the trade where he diligently and sincerely discharged his duties.

3. While serving in the trade, the applicant applied for commissioning into the Indian Navy through the Competent Selection Body under the CW Scheme of 2020 on 16.10.2019. At that time, he was medically classified as being in the S1A1 category meaning he was fit to perform his duties. He successfully cleared the written examination on 10.06.2020 and later appeared before the Services Selection Board (SSB) and the Naval Selection Board (NSB). After passing these stages, his case was referred to the Board President, Naval Selection Board on 17.07.2020.

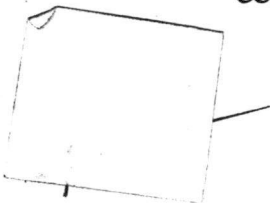
4. However, when his case was referred to the Special Medical Board for examination as part of the selection process, he was declared medically unfit on the grounds of two medical disabilities, i.e. (a) Revised Blood pressure and (b) Classified Granuloma 4.3 mm (more than 3 mm in his liver). This decision

was communicated to him on 29.07.2020. The Medical Board informed him that he could apply for an Appellate Medical Board review within the prescribed time limit of 42 days.

5. The applicant duly appealed and his case was referred to the INHS ASVINI for further medical evaluation by the Appellate Medical Board. While the Appellate Medical Board found him fit in terms of the (a) revised blood pressure issue (declaring it unsustainable), he was still deemed unfit on account of the classified (b) granuloma in his liver. This decision was communicated to him on 11.09.2020 which ultimately led to him not being recommended for appointment to the post.

6. After the decision of the Appellate Medical Board, the applicant approached his superior officers for a further review. He was re-examined by the Medical Board and admitted to INHS Sanjivini for additional evaluations. However, despite these efforts, he was again declared medically unfit due to the same condition and his representation for reconsideration was rejected.

7. The applicant contends that the decision to declare him medically unfit based solely on the identified ailments is highly

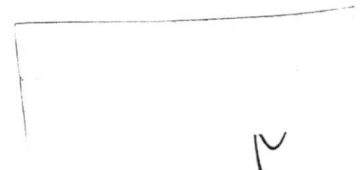


discriminatory and violative of Articles 14 and 21 of the Constitution of India. He argues that this decision is arbitrary because in other branches of the Armed Forces, namely, the Indian Army and the Indian Air Force, the same ailment does not render a candidate unfit for service. The applicant claims that the imposition of different medical criteria for recruitment in different branches of the Armed Forces is unconstitutional and violates the principles of equality enshrined in Article 14 of the Constitution.

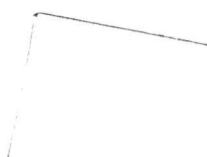
8. The applicant further submits that the medical standards applied to the Indian Navy in his case are unreasonable, arbitrary, and discriminatory. He asserts that there is no logical basis for the Navy to consider the identified medical conditions as disqualifying factors, especially when such conditions are not regarded as impediments in the Indian Army or Air Force. Therefore, the applicant seeks relief from this Tribunal on the grounds that the actions of the medical board are discriminatory, illegal, and violative of his fundamental rights. He further claims that while he has been performing his duties in the sailor cadre, his application for appointment to a

commission has been rejected on medical grounds, which he asserts is both legally unsustainable and unjust.

9. Relying on an order passed by the Hon'ble High Court of Punjab and Haryana in LPA vide case No. LPA- 690-2020 (O&M) (Annexure A7), the learned counsel argues that in this case a Division Bench allowed the appointment of the petitioner who was found medically unfit due to having a single testicle. It is argued that based on this judgment, the applicant is similarly entitled to be appointed. The counsel for the applicant vehemently contends that the action of the respondents in discriminating by applying varying medical criteria for appointments to the Armed Forces, under the Ministry of Defence, Government of India, is discriminatory and violates Article 14 of the Constitution of India. The applicant points out those aviators with similar medical conditions have been commissioned and are serving in the Indian Air Force, but when it comes to recruitment in the Indian Navy, the same condition is treated as a prohibitory disability. This, according to the applicant, is legally unsound and cannot be justified.



10. The respondents have filed a detailed counter affidavit wherein it is contended that after the applicant was enrolled in the Naval Service on 30.02.2018, his case was considered for commissioning into the Indian Navy under the CW Scheme of 2020. The applicant appeared before the Medical Board after undergoing the necessary selection process to assess his medical fitness. The applicant underwent a Special Medical Board at INHS Kalyani on 29.07.2020 where he was declared unfit due to raised blood pressure and the presence of classified granuloma measuring 4.3 mm (greater than 3 mm) in his liver. On appeal filed by the applicant, his case was referred to the Appellate Medical Board on 10.09.2020 where he was again declared unfit. The applicant subsequently applied for a Review Medical Board, but this application was dismissed by the Competent Authority, namely, the Directorate General of Armed Forces Medical Services (DGFMS) on 26.11.2020. The respondents argue that while the applicant was medically fit to perform the duties of a sailor, he was found unfit for commissioning into the Indian Navy due to the medical standards and guidelines laid down for the purpose of



commissioning in the Indian Navy, as per the policies governing such procedures.

11. The respondents refer to the medical standards outlined in the Naval Order (Spl) 01/2008 specifically in Para 13(a), which details the criteria for medical fitness including the assessment of abdominal conditions which reads as under:-

13. Abdomen.

(a) Evidence of any disease of the gastro-intestinal tract, enlargement of liver, spleen or bladder, tenderness on abdominal palpation, evidence/history of peptic ulcer or previous history of extensive abdominal surgery. All officer entry candidates are to be subjected to the Ultra Sound Examination of the abdominal and pelvic organs for detecting any abnormalities of the internal organs.

Wherein the applicant's liver condition, which involved a granuloma exceeding 3 mm in size, was determined to be medical disqualification. Furthermore, the Integrated Headquarters of the Ministry of Defence, Government of India issued a letter No.MH0502/Policy dated 11.11.2009 (Annexure R1) which sets forth the criteria for assessing candidates for commissioning into the Indian Navy. According to Para 5.1(a) and (b) of the counter affidavit, a candidate with calcifications or granulomas in the liver greater than 3 mm in size is considered unfit for commissioning.

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12. In light of the medical standards prescribed by the Naval Order 01/2008 and the aforementioned policy guidelines, the respondents assert that the applicant was rightly declared unfit for commissioning into the Indian Navy. As per the medical evaluation and the guidelines, the applicant is not eligible for commissioning and, therefore, cannot be granted any benefits with regard to the commissioning process.

13. Learned counsel for the respondents vehemently argued that in the service conditions, the nature of duties and various factors for discharge of duties in the three wings of the Indian Armed Forces, namely, The Indian Army, The Indian Air Force and The Indian Navy are different, based on the work requirement and the classification and category. Various medical standards for cadre of employment are fixed, which are different for soldiers and commissioned officers. These are based on policy matters determined on scientific and medical parameters fixed after due assessment and evaluation of service requirement and once the administrative policies for recruitment and medical criteria are laid down after scientific assessment no claim for appointment contrary to the policies

can be made on the ground of discrimination in the services. Accordingly, learned counsel for the respondents prays for dismissal of the application.

14. We have heard the learned counsel for the parties at length and perused the records. The facts, as detailed above, are all admitted and require no further analysis or deliberation. It is an admitted position that the applicant applied for appointment as a commissioned officer in the Indian Navy after the written selection and interview processes were completed. The applicant was subsequently subjected to a medical assessment by the duly constituted Special Medical Board, which consisted of experts. The medical examination report (Annexure R1) indicates that the Special Medical Board examined the applicant and the findings of the Board, as recorded on page 4 of the medical report, were that the applicant was unfit for appointment as a commissioned officer in the Indian Navy. The reasons for this decision were raised blood pressure and the presence of a classified granuloma measuring 4.3 mm while the permissible size was less than 3 mm.



15. The applicant filed an appeal and his case was referred to the Special Appellate Medical Board which examined him at INHS Ashwini. The report of the Appellate Medical Board indicates that the applicant was found to have a calcified granuloma in the liver measuring more than 3 mm (i.e., 4.3 mm). The documents from the Special Medical Board dated 29.07.2020 and the Appellate Medical Board dated 10.09.2020 are available on record as Annexures R1 (colly) and R2, respectively. Both medical boards have found the applicant unfit for appointment as a commissioned officer in the Indian Navy.

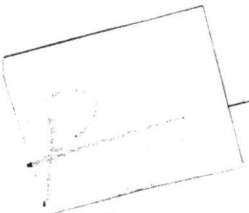
16. The standards prescribed for the assessment of candidates for appointment to the Indian Navy specify that any calcification of the liver greater than 3 mm in size constitutes an impediment to appointment and candidates with such conditions are deemed unfit for service. Similarly, in Naval Order Special 01/2008, Para 13(a), it is stated that any evidence of disease in the gastrointestinal tract with liver enlargement disqualifies a candidate for appointment. It is, therefore, clear that the applicant's medical condition, i.e., calcified granuloma greater

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than 3 mm is an impediment to his appointment, and as such, he has been declared unfit for service.

17. It is a well-settled principle of administrative law that policymakers and administrative authorities are entitled to lay down the criteria and policies for appointments to services. In the case of the Indian Armed Forces (Army, Navy, and Air Force), where physical fitness is one of the paramount considerations for appointment, the administrative authorities have the power to lay down criteria that define the medical and physical standards for recruitment. Moreover, the requirements for appointment in the Army, Navy, and Air Force differ based on the distinct nature of duties to be performed in each service. Therefore, it is within the powers of the competent authorities of each service to prescribe and apply different criteria for appointment to specific posts.

18. Looking to the nature of the duties to be performed by a commissioned officer in the Indian Navy, if the authorities of the Indian Navy have prescribed certain criteria for appointment, it is not within the jurisdiction and power of a statutory Tribunal or Court to interfere with these criteria unless it is found to be



arbitrary, unreasonable, or in violation of constitutional or statutory provisions. No such arbitrariness or violation has been brought to our notice in this case. The only contention advanced by the applicant is that the criteria for medical fitness differ between the three services, and this is argued to be an arbitrary decision.

19. In our considered view, given the vast differences in the services to be performed by officers and men in the Army, Navy, and Air Force, it is well within the jurisdiction of the authorities of each service to lay down different criteria for physical fitness and medical standards, based on the specific requirements of the service. It is, therefore, not appropriate to compare the medical standards prescribed by the Indian Navy with those of the Indian Army or Indian Air Force. These differences are not discriminatory; they reflect the distinct needs and duties of each service.

20. It is well-established that in the armed forces, based on expert evaluation, standards that are specific to the nature of the work to be performed are prescribed. If these standards are based on scientific, medical, administrative advice and



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requirements a statutory Tribunal cannot interfere with these decisions unless they are shown to be arbitrary or unreasonable.

21. In conclusion, based on the facts and circumstances of this case, we find no reason to interfere with the administrative decision made by the competent authority of the Indian Navy. The decision was made in discharge of statutory duties and in accordance with the Indian Navy Act. We, therefore, dismiss the application.

22. Accordingly, the OA is disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

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