

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 14336 / 2017

Bharat Singh Son of Shri Narayan Ram, Aged About 19 Years,
Resident of Village- Kasari, Tehsil- Jayal, District- Nagaur
(Rajasthan).

-----Petitioner

Versus

1. The Union of India Through the Defence Secretary, Ministry of
Defence, Central Secretariat, South Block, Government of India,
New Delhi.

2. The Chief of Air Force Staff, New Delhi.

3. Central Airmen Selection Board, Through Its President, Brar
Square, Delhi Cantonment, New Delhi.

-----Respondents



For Petitioner(s) : Mr. Prakash Bhati

For Respondent(s) : Mr. Falgun Buch for Mr. Sanjeet Purohit

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Order

12/03/2018

1. Petitioner has preferred this writ petition with the
following prayer :-

*"1. By an appropriate writ, order or direction, the
entire record of the selection process may kindly be
called.*

*2. By an appropriate writ, order or direction, the
medical unfitness certificates dated 13.07.2017 &
04.09.2017 issued by the respondent authorities may
kindly be declared illegal and same may kindly be
quashed and set aside.*

*3. By an appropriate writ, order or direction, the Main
select list dated 31.10.2017 issued by the respondent
authorities may kindly be declared illegal and same*

may kindly be quashed and set aside upto the extent of declaring petitioner medically unfit.

4. By an appropriate writ, order or direction, the respondent authorities may kindly be directed to re-conduct the petitioner's medical examination afresh for recruitment & enrolment in to the India Air Force for Group X & Y in pursuance to the recruitment advertisement.

5. By an appropriate writ, order or direction, the respondent authorities may kindly be directed to provide appointment to the petitioner in to the India Air Force with all consequential benefits, if petitioner is found fit in the medical examination.

6. Any other appropriate order, which deemed fit in the facts and circumstances of the case may kindly be passed in favour of the petitioner."

2. Learned counsel for the petitioner states that the petitioner sought recruitment for the advertisement in the year 2016 in Indian Air Force for the post of Group X (Technical) Trades and Group Y (Non-technical) Trades. Since the petitioner had all the requisite qualifications, he participated in the examination and stood qualified. The petitioner was then called for medical examination held on 13.07.2017 and as per the report of the medical examination, he had been declared medically unfit on the ground of (1) Drooping Shoulder (RT) and (2) Contact Dermatitis over back. The petitioner preferred an appeal and the Appellate Medical Board re-examined him and issued a certificate on 04.09.2017 whereby the unfitness on account of Drooping Shoulder was only found and the other disability of Contact Dermatitis was over ruled.

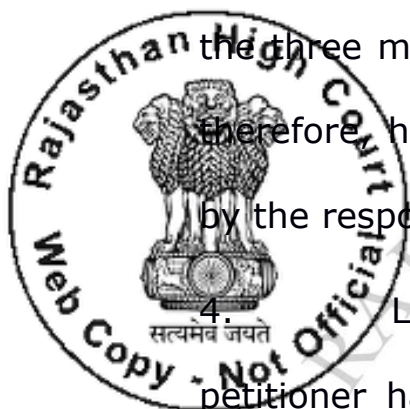


3. Learned counsel for the petitioner has pointed out Annexure-8 page 31 whereby the petitioner undergoing the same selection process at in earlier occasion was examined by the Indian Air Force and held to be fit as per the Medical fitness certificate issued on 11.07.2016. Learned counsel for the petitioner makes a limited prayer that since there is a difference in the three medical certificates on record i.e. Annexure-4, 6 and 8, therefore, he must be given one more chance to be re-examined by the respondents.

4. Learned counsel for the respondent states that the petitioner has already availed the chance of medical board and appellate medical board and therefore, at this juncture since the matter pertains to the Armed forces, therefore, no leniency can be shown in the matter of physical fitness.

5. After hearing counsel for the parties and perusing the record of the case, this Court is of the opinion that respondents have issued three medical certificates and all the three medical certificates carry a differences as one certificate Annexure-4 has two counts of being medically unfit that are one Drooping Shoulder and another Contact Dermatitis over back. The Appellate Medical Board issued second certificate on 04.09.2017 has only one medical condition which is Drooping Shoulder whereas the third certificate which was examined by the same respondent on 11.07.2016 on the same parameters during the course of same selection process, the petitioner has been declared totally fit.

6. In light of the aforesaid fact and particularly the difference of opinion in fitness certificate issued by the competent



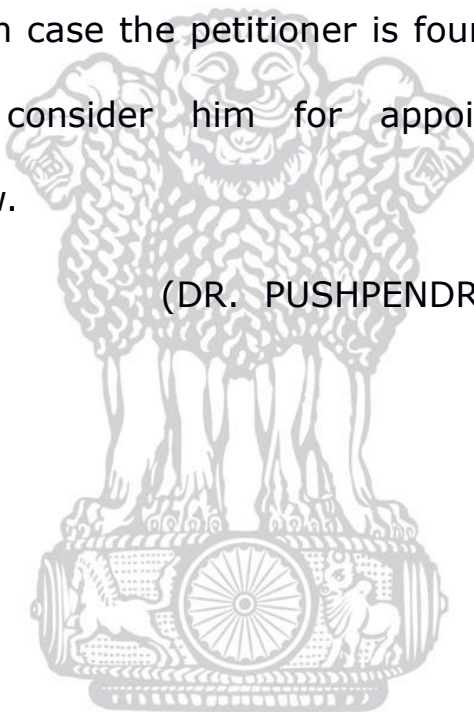
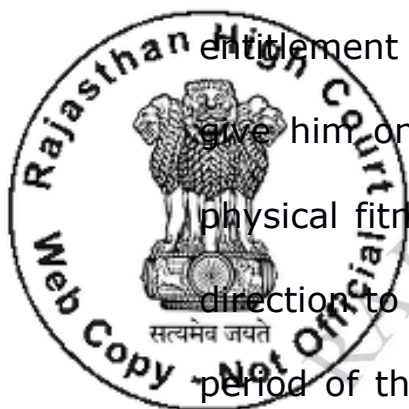
authority which has not been denied by the respondent in this Court, it would be appropriate to give benefit of doubt to the petitioner. A young man aspiring to serve the nation in the Indian Air Force and who is otherwise qualified on merits should not be kept in doubt by the medical authorities and he should have a complete satisfaction on account of his medical condition and his

entitlement to seek such appointment. Thus, it will be proper to give him one more opportunity to the petitioner to undergo the physical fitness. Therefore, the writ petition is disposed of with a direction to the respondent to constitute a Medical Board within a period of three weeks from today and after calling the petitioner

before the Board, in case the petitioner is found medically fit, the respondent shall consider him for appointment strictly in accordance with law.

(DR. PUSHPENDRA SINGH BHATI)J.

sudheer



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