

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No.2744/2024
CM No.6672/2024
CM No.2102/2025

Reserved on: 02.06.2025
Pronounced on: 06.06.2025

Anish Rajulia, Age 22 ½ years
S/O Sh. Tara Chand,
R/O Village Kathar Brahmana,
Tehsil & District Samba.

.....Petitioner(s)

Through :- Mr. Sheikh Altaf Hussain, Advocate.

v/s

1. Union of India through its Secretary,
Ministry of Personnel, Public Grievances and
Pension, Department of Personnel and Training,
Staff Selection Commission, Block No.12,
CGO Complex, Lodhi Road, New Delhi-110003.
2. Staff Selection Commission through its Secretary/
Controller Examinations, Block No.12,
CGO Complex, Lodhi Road, New Delhi-110003.
3. The Under Secretary,
Staff Selection Commission, Block No.12,
CGO Complex, Lodhi Road, New Delhi-110003.
4. The Medical Board,
Detailed Medical Examination of CT/GD
Examination 2024, through its Presiding Officer,
CRPF, Group Centre, Bantalab, Jammu.
5. The Review Medical Board
Review Medical Examination of CT/GD
Examination 2024, through its Presiding Officer,
CRPF, Group Centre, Bantalab, Jammu.

.....Respondent(s)

Through :- Mr. Vishal Sharma, Dy. SGI.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

- 01.** The petitioner, through the medium of this petition, seeks quashment of
Detailed Medical Examination Report/Memorandum Unfit dated

08.10.2024 issued by respondent No.4 whereby his candidature for the post of Constable (GD) in Central Armed Police Forces (CAPFs) has been declared 'unfit' for having 'port wine stain' (birth mark) on his face; and to further quash the Review Medical Examination Report dated 09.10.2024 issued by respondent No.5 whereby the opinion of the Detailed Medical Examination Board has been upheld by the Review Medical Examination Board, allegedly in violation of the Uniform Guidelines on the subject dated 20.05.2015 read with Revised Uniform Guidelines dated 31.05.2021 and to direct the respondents to select/appoint the petitioner as Constable (GD) in CAPFs, SSF or Rifleman (GD) in Assam Rifles, if he is otherwise found meritorious.

- 02.** It has been asserted that the petitioner having 'A' Class NCC certificate and also winning District Level Football tournament and otherwise qualified had applied online for the post of Constable (GD) in Central Armed Police Forces on 24.11.2023 vide registration No.40002348462; that the Staff Selection Commission issued e-admission certificate (Admit card) to the petitioner under Roll No.1404019065 for appearing in the written test on 28.02.2024 at Examination Centre- Ion Digital Zone IDZ, Albert Road, Amritsar (Punjab); that he appeared in the examination on the scheduled date and qualified the same by securing 110.38654 marks; that after qualifying the written examination, the Staff Selection Commission issued combined admit card to the petitioner for appearing in the Physical Standard Test (PST), Physical Efficiency Test (PET), documents verification and detailed medical examination on 05.10.2024 at CRPF Group Centre Bantalab, Jammu; that he appeared in

the Physical Standard Test (PST) as well as Physical Efficiency Test (PET) on 05.10.2024 and qualified the same to the entire satisfaction of the selection authority; that after qualifying both Physical Standard Test (PST) & Physical Efficiency Test (PET), his documents were verified and the same were found genuine; that thereafter the petitioner was subjected to Detailed Medical Examination by respondent No.4 on 08.10.2024 and the board declared him as 'unfit' for having 'port wine stain' on his face and that on appearing before the Review Medical Board on 09.10.2024 his candidature was also rejected on the same ground.

- 03.** The petitioner has assailed the rejection by the Detailed Medical Board as well as Review Medical Board on the grounds that 'port wine stain' on the face of the petitioner is a birth mark, which does not amount to skin disease or leprosy as defined in para XII of Guideline No.9 of Revised Guidelines 2021 that only the congenital or acquired anomalies of the skin such as nevi or vascular tumors that interfere with function, or are exposed to constant irritation, entail disqualification for recruitment in CAPFs, however, the petitioner was not suffering from any such anomaly and the impugned medical examination certificates do not assign any reason for declaring the petitioner 'unfit'; that disqualification of the petitioner on the ground of having birthmark is violative of Articles 14, 16 & 21 of the Constitution of India and smacks of discrimination meted out to him only to turn his merit into demerit. It was finally prayed to quash the detailed medical examination report as well as review medical examination report impugned in this petition and

to direct the respondents to conduct the fresh medical examination of the petitioner and select him for the post of Constable, if he is otherwise eligible and has qualified the tests.

- 04.** Pursuant to notice, the respondents have filed their reply/objections stating that the standards of medical fitness for the purpose of recruitment are variable and differ from service to service and from employment to employment, being job specific one; that since fitness of a soldier is the paramount requirement in a force, hence an unfit candidate cannot be selected for performing the rigorous duties in armed forces in inhospitable terrain and uncongenial weather conditions for prolonged periods as per the demand of the job, while he may be fit for doing other day to day sedentary duties of other employments; that the specialist doctors in the service are experienced medical practitioners and are fully conversant with the requirements of the organisation as also the harsh working conditions that the individual has to face post his induction into the armed forces and as a matter of policy, the opinion of the medical specialists is final and that there was no provision for third medical examination as per existing policy as prayed for by the petitioner; that the petitioner has been declared medically unfit not only in his detailed medical examination but in the review medical examination as well and having regard to the opinion of the experts in the field the petitioner has no case to be recruited in the security forces as against the specialists' opinion.
- 05.** Learned counsel for the petitioner submits that the petitioner has a birthmark on his face and having been qualified in all the tests preceding

to his medical examination, he was declared unfit by the Medical Board and also by the Review Medical Board without assigning any reason as to how the birthmark on the face of the petitioner would impede in efficient discharge of training and working in security forces; that the impugned medical examination reports have been formulated by the Medical Boards in contravention to the guidelines issued by the Ministry of Home Affairs on 31.05.2021 as Revised Uniform Guidelines for Review Medical Examination in Central Armed Police Forces and Assam Rifle for GOs and NGOs: Amendment thereof.

- 06.** He has also argued that the petitioner had on an earlier occasion applied for recruitment in Army and the concerned Medical Board of the Recruitment Agency of the Army had declared the petitioner as 'fit', nevertheless, that selection process was shelved with the introduction of Agniveer Scheme in the Army; that the petitioner was examined by the Specialists of Dermatology Department of the Government Medical College, Jammu and vide Certificate dated 25.10.2024 on his examination 'port wine stain' on the right side of his face measuring 8x6 cm was found as a vascular birthmark with condition of benign and non infective/non-contagious, as such, the petitioner had no deformity so as to be declared as unfit medically and prayed that the certificates issued in his Detailed Medical Examination and Review Medical Examination declaring the petitioner as unfit be quashed, with a direction to the respondents to offer the post of Constable, for which, if he is otherwise qualified.

07. In support of his arguments, learned counsel for the petitioner relied upon the judgments of different High Court in the cases; i) **Ashok Dukiya Vs. Union of India** [Civil Writ Petition No.940/2021 decided on 09.02.2021] by the High Court of Judicature for Rajasthan; ii) **Ramkala Varma Vs. Union of India & Ors.** [Civil Writ Petition No.17749/2024 decided on 03.03.2025] by the High Court of Judicature for Rajasthan; iii) **Yogesh Vs. Union of India & Anr.** [CWP-1729-2024 Date of Decision 29.01.2024] by the High Court of Punjab and Haryana; and iv) **Sunil Kumar Vs. Union of India & Ors.** [SWP No.2108/2016 decided on 21.02.2023] by this Court.
08. Mr. Vishal Sharma, learned Dy. SGI appearing for the respondents, on the other hand, argued that the petitioner on being subjected to his Detailed Medical Examination and also Review Medical Examination had been found unfit and it is the specialist of the field who can determine as to whether the candidate was fit to serve in the security forces or not and the reliance by the petitioner on his certificate issued by the Civilian Doctors of Government Medical College, Jammu is of no relevance; that the 'port wine stain' on the face of the petitioner in view of the duties of an individual in inhospitable terrain and uncongenial weather conditions could prove to be of such a nature that the individual would not be in a position to perform his strenuous duties; that the Experts of the field are competent to ascertain the medical condition of the petitioner and their opinion cannot be questioned before this Court, so as to declare that the opinion by the Board was not proper and prayed that the petition be rejected.

- 09.** The Ministry of Home Affairs on 31.05.2021 had issued Revised Uniform Guidelines for Review Medical Examination in Central Armed Police Forces and Assam Rifles for GOs & NGOs: Amendment thereof. Clause-6 of these guidelines is relating to General Grounds for rejection and in sub-clause (20) 'any congenital abnormality' which may impede efficient discharge of training/duties has also been recorded as ground for rejection. The petitioner seems to have been rejected due to this congenital abnormality. The guidelines further provide in clause XII 'Examination for Skin Diseases and Leprosy' of whose sub-clause (8) of part-B provides 'congenital or acquired anomalies of the skin such as nevi or vascular tumors that interfere with function, or are exposed to constant irritation are disqualifying. History of Dysplastic Nevus Syndrome is also disqualifying.
- 10.** On perusal of the impugned medical certificates declaring the petitioner as unfit for service in Central Armed Police Forces, it is found that the Boards in their detailed medical examination as well as review medical examination had shown the petitioner as unfit for 'Port Wine Stain' on his face, but have not explained as to under what conditions he can be declared as unfit. The respondents have not filed any record of examination along with their reply and the cryptic observations of the Boards are just to declare the petitioner as unfit merely having 'Port Wine Stain' on his face.
- 11.** The contention of the learned Dy.SGI that as a matter of policy, the opinion of the experts is to be accepted and that no third examination is permissible when already the petitioner had been examined twice one by

the medical board and then by the review medical board seems to be untenable in view of no reason assigned in view of the Revised Uniform Guidelines dated 31.05.2021. Though the learned counsel for the petitioner, in his arguments, prayed that the medical examination reports assailed in his petition be quashed and the respondents be directed to offer selection/appointment order in favour of the petitioner, however, in his petition, the petitioner has prayed for a direction to conduct his fresh medical examination.

12. Hon'ble High Court of Rajasthan in an identical case titled **Ashok Dukiya Vs. Union of India** [Civil Writ Petition No.940/2021 decided on 09.02.2021] while considering the Medical Board and Review Medical Board reports, observed that the petitioner therein had been found unfit with the 'cogenital Melanolytic Nevus' and that the Boards had failed to ascribe the reasons as to how the petitioner's birthmark will impede in the discharge of training/duties in view of the Guidelines dated 20.05.2015; that in absence of any material to substantiate rejection of the petitioner's candidature was not only illegal and arbitrary but was also contrary to the Revised Guidelines dated 20.05.2015.
13. Hon'ble High Court of Rajasthan again in a case titled **Ramkala Varma Vs. Union of India & Ors.** [Civil Writ Petition No.17749/2024 decided on 03.03.2025] also in a similar case with regard to the selection of Constable (GD) in CAPFs considered the case where the petitioner therein was declared unfit for service by the Medical Boards based exclusively on the presence of a birthmark which was deemed an impediment to her ability to perform her duties, and that in view of the

petitioner having ‘congenital melanocytic nevus’ a birthmark which was clinically identified as a non-communicable and non-infectious, and was not health hazard being benign in nature, held that the petitioner’s case appears to be resilient; that the medical rejection and rejection by the respondents is based on speculative presumptions and does not meet the threshold of legal justification; that the independent medical opinion, which supports the petitioner’s medical fitness is not rebutted and the prior declaration of medical fitness in an earlier BSF recruitment process further reinforces the petitioner’s entitlement to consideration.

14. The afore stated case dealt with by the Hon’ble High Court of Rajasthan appears to be identical to the facts on hand as in this case also the petitioner was declared unfit for his birthmark ‘Port Wine Stain’ without being considered by the Medical Boards as to whether the same may be an impediment in the discharge of function or training or not, as provided under Clause 6(20) of the Guidelines and also the petitioner herein had been cleared by the Medical Board during the process for recruitment in Army and that he had certificate from the civil doctors of Dermatology of Government Medical College, Jammu certifying that the birthmark ‘Port Wine Stain’ on the face of the petitioner was a vascular birthmark with condition of benign and non infective/non-contagious.
15. Hon’ble High Court of Punjab & Haryana also considered the matter with regard to the ‘Port Wine Stain’ in a case titled **Yogesh Vs. Union of India & Anr.** [CWP-1729-2024 Date of Decision 29.01.2024], the relevant para is extracted as under:-

“Congenital malformation could be due to a number of causes which may be genetic, environmental or a combination of both.

It is important to note that congenital malformation may be minor, causing little or no impairment. For instance, the same could be in the nature of a port wine stain of the face; an extra nipple on the chest; a short fourth finger; an extra finger or other abnormal facial or bodily features; formation of breasts in a male; formation of male genitalia in a female etc. Some such defects as in the nature of a cleft lip or a cleft palate etc. may be totally correctable. Other defects may cause serious impairments as in the nature of mental retardation, severe physical abnormalities, increased incidence of cancer etc. It is also important to notice that existence of a particular condition in a candidate would not ipso facto render such candidate unfit for discharging the assigned duties in the service. The meaning of the expression “congenital malformation” in the standards appointed by the respondents cannot be interpreted generally or so broadly so as to include even such minor defects that do not impact functional efficiency in any manner. The same have to be of such a nature so as to impair the normal expected functioning of an individual. There are occasions when a man may develop female like breasts known as gynaecomastia and may undergo surgical correction.”

16. A Coordinate Bench of this Court also considered the matter of similar nature in a case titled **Sunil Kumar Vs. Union of India & Ors.** [SWP No.2108/2016 decided on 21.02.2023] where the petitioner therein having abraded lesions over right hand and right forearm was declared unfit for being considered for the selection of a Constable (GD) in Border Security Force and held that it was neither the case of the respondents nor there was any expert opinion that the Review Medical Board had detected any congenital or acquired anomalies of the skin which have the effect of interfering with the functions of a Constable GD, as such, the report formulated by the Review Medical Board was quashed, with a direction to the respondents to convene a Revised Medical Board to re-examine the petitioner and if he was found to be fit to perform the duties of a Constable GD in terms of the revised

Guidelines of 2015 and the observations made in the order, he be offered an appointment.

17. The medical opinion formulated vide impugned Medical Examination reports has not shown the unsuitability of the petitioner and on the basis of the impugned reports the contentions raised by the respondents cannot be countenanced.
18. Having regard to the facts and circumstances of the case, this Court is of the opinion that the candidature of the petitioner had been rejected wrongly and arbitrarily on the basis of the impugned Medical Reports issued by the Detailed Medical Examination Board and Review Medical Examination Board without stating any reasons as to how the birthmark which has been described as 'Port Wine Stain' on the face of the petitioner could impede the function/training of a Constable (GD) in case of his selection. The petitioner has placed on record a document whereby he had been declared fit by the Medical Board with regard to recruitment in Army and had also placed on record a certificate issued by the Medical Board of the Government Medical College, Jammu certifying that the mark 'Port Wine Stain' on the face of the petitioner was found as a vascular birthmark with condition of benign and non infective/non-contagious. The certificate by the Review Medical Board stated to have been issued on 09.10.2024, however, has been signed/attested by the Members of the Board on 12.10.2024, which fact also renders the credibility of the certificate doubtful, prepared in a casual manner. The candidature of the petitioner seems to have been

illegally and arbitrarily rejected, as such, interference by this Court is warranted while exercising the writ jurisdiction.

- 19.** Viewed thus, petition filed by the petitioner is allowed and the impugned Detailed Medical Examination Report/Memorandum dated 08.10.2024 and Review Medical Examination Report dated 09.10.2024 are quashed, with a direction to the respondents to convene a Revised Medical Board and re-examine the petitioner and if he is found fit to perform the duties of a Constable (GD) in terms of Revised Uniform Guidelines of 2021 for Review Medical Examination in Central Armed Police Forces (CAPFs) and Assam Rifles for GOs and NGOs notified on 31.05.2021, and the observations made hereinabove, the petitioner be offered an appointment, if he is otherwise found qualified for appointment. The entire exercise shall be completed within a period of eight weeks from the date, a certified copy of this judgment is served upon them.
- 20.** The Writ Petition is, accordingly, disposed as granted alongwith connected application(s). No order as to costs.

(M A Chowdhary)
Judge

JAMMU
06.06.2025
Narinder

Whether the judgment is speaking? Yes
Whether the judgment is reportable? Yes