



RAJASTHAN HIGH COURT

HIGH COURT OF JUDICATURE FOR RAJASTHAN

BENCH AT JAIPUR

सत्यमेव जयते

S.B. Civil Writ Petition No. 17749/2024

Ramkala Varma D/o Shri Dhuna Ram, Aged About 28 Years, R/o Village And Post Baldod, Tehsil Behror, District Alwar, (At Present District Kotputali), (Raj.)

-----Petitioner

Versus

1. Union Of India, Through The Secretary, Home Department, Government Of India, New Delhi.
2. Regional Director, Staff Selection Commission, Northern Region, Block No. 12, Cgo Complex, Lodhi Road, New Delhi- 1100003
3. Secretary, Staff Selection Commission, Northern Region, Block No. 12, CGO Complex, Lodhi Road, New Delhi- 1100003
4. Director General, Crpf (Recruitment Branch), East Block- 07, Level- 4, Sector 01, R.k. Puram, New Delhi.
5. Review Medical Board, Ch- BSF, Jodhpur, Served To Be Through PP/ CMO (Sg) Composite Hospital, Mandore Road, Jodhpur.

-----Respondents

For Petitioner(s)	:	Mr. Tanveer Ahamad, Adv. with Mr. Sunil Kumar Saini, Adv.
For Respondent(s)	:	Mr. Ashish Kumar, Adv.with Mr. Digvijay Singh, Adv. with Mr. Anupam Singh, Assistant Commandant, CRPF through VC Dr. Pramit Garg, CMO CR. (S.G) through VC Mr. Manish Jeph, Asst. Prof. Skin & V.C., present in person

HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

<u>Reserved on</u>	::	<u>20/02/2025</u>
<u>Pronounced on</u>	::	<u>03/03/2025</u>

Reportable

1. The nitty-gritty of the instant petition is that the respondent-Staff Selection Commission issued an advertisement



dated 24.11.2023 inviting applications for the post of Constable (GD) in Central Police Forces (CAPFs), SSF and Rifleman (GD) in Assam Rifles. Pursuant to the same, the petitioner applied under the SC-Female category. Sequentially, the petitioner, completed the part-I registration of the online application form and appeared in the online examination held on 07.03.2024; wherein she had obtained 135.95 marks and the cut-off under the category in which the petitioner had applied was 119.16 marks.

2. Consecutively, the petitioner was called for PET/PST and DV/DME which was scheduled on 08.11.2024. However, the candidature of the petitioner was rejected and she was declared unsuccessful/disqualified in PST due the following two reasons:

2.1 That the petitioner has a congenital melanocytic nevus (mark) on back.

2.2 That the report of Cardiomegaly (Chest X-Ray) was not as per the norms of the respondent-recruiting agency.

SUBMISSIONS MADE BY THE COUNSEL REPRESENTING THE PETITIONER:

3. In this backdrop, learned counsel appearing on behalf of the petitioner had contended that the petitioner, having undergone a medical evaluation by the designated medical board, was initially declared fit with respect to cardiomegaly. However, notwithstanding her medical fitness in relation to cardiomegaly, the petitioner was subsequently declared unfit for service based exclusively on the presence of a birthmark, which was deemed an impediment to her ability to perform her duties. Thence, it can be



deduced that this assessment is incorrect and unjust, particularly when the medical opinions presented are carefully scrutinized.

4. It was further averred that the petitioner possesses a congenital melanocytic nevus, commonly referred to as a birthmark, which is present since birth. Nevertheless, a thorough medical opinion was sought by the concerned authorities to ascertain whether this condition could be deemed a medical impediment or otherwise. Moreover, the opinion rendered by an expert in dermatology, whose qualifications and expertise are beyond dispute, clearly states that the petitioner's congenital melanocytic nevus is neither communicable nor contagious. It does not pose any risk to others by touch or air. Importantly, from a dermatological perspective, it can be noted that the petitioner is entirely fit for duty and this condition does not, in any way, impair her ability to perform the tasks required in her role.

5. Furthermore, it was contended that the expert dermatologist, whose opinion is documented in the petition, unequivocally confirms that the petitioner's birthmark is a benign condition that does not affect her physical fitness. This opinion is grounded in established dermatological principles and is consistent with widely accepted medical practice. Notwithstanding the comprehensive and medically sound opinion provided by the dermatologist, the petitioner's review medical board opinion, dated 13.11.2024 (Annexure-4), has unjustifiably declared her unfit based on the same congenital melanocytic nevus. The board's decision to declare the petitioner unfit is contrary to the clear medical evidence presented, and there appears to be no



reasonable or rational basis for disregarding the specialized opinion of the expert in dermatology. Nonetheless, the board's conclusion is not supported by any relevant medical rationale and fails to account for the expert's findings regarding the petitioner's overall physical fitness and ability to render the service allotted to her.

6. Learned counsel had laid emphasis on the aforementioned and had submitted that the birthmark located on the petitioner's back is a purely cosmetic issue and, as such, does not affect her physical fitness or her ability to carry out the duties associated with her role. The rejection of the petitioner's candidature based on this condition is not only illegal but also arbitrary. It was then contended that the medical condition, being non-communicable, does not hinder the petitioner's performance in any capacity, and there is no justifiable medical or legal basis for its consideration as a disqualifying factor. It was further submitted that the petitioner satisfies all relevant qualifications as per the guidelines set by the employer/respondents. Nevertheless, in a previous recruitment process conducted by the Border Security Force (BSF), the petitioner was declared medically fit, and despite this, her candidacy was rejected on the merits herein, which appears to be a case of inconsistency and unjust treatment. As evidenced by Annexure-8 (Copy of relevant RME dated 17.09.2022) to the petition, the petitioner was previously found to meet the medical standards required for the position, and the arbitrary rejection of her candidature in the present instance is a



clear violation of her rights and a failure to adhere to the established standards.

7. In support of the contentions noted insofar, learned counsel had placed reliance upon the dictum encapsulated in **S.B. Civil Writ Petition No.940/2021**, titled as **Ashok Dukiya Vs. Union of India and Ors.**, decided by the Principal Seat at Jodhpur vide judgment dated 09.02.2021, wherein similar issues concerning medical disqualification were considered, and it was held that an arbitrary rejection based on minor or cosmetic medical conditions that do not impair the ability to perform job duties is impermissible. Withal, the principle of proportionality was upheld, and it was ruled that the employer must exercise its powers in a reasonable and non-arbitrary manner, ensuring that disqualifications are grounded in genuine medical reasons rather than cosmetic or trivial concerns.

8. Additionally, learned counsel appearing for the petitioner had relied upon the opinion of an independent Doctor from Jawahar Lal Nehru Hospital, Ajmer, which corroborates the petitioner's claim that the birthmark is a benign and non-contagious condition. This expert opinion further substantiates the petitioner's assertion that the condition does not interfere with her physical fitness for the job, reinforcing the arbitrary and unjust nature of the medical board's decision.

9. Lastly, it was averred that the actions of the medical board and the rejection of the petitioner's candidature are in violation of principles of natural justice, fairness, and proportionality. The arbitrary rejection, particularly in light of the



petitioner's previous medical fitness certification and the expert opinions provided, cannot be sustained under the law. Further, the employer's decision-making process, based on cosmetic and non-substantive medical conditions, violates the petitioner's fundamental right to equality as enshrined under the provisions of Article 14 of the Constitution of India, as well as her right to a fair and reasonable evaluation of her qualifications.

10. In view of the above, learned counsel had prayed that this Court may set aside the decision of the medical board rejecting the petitioner's candidature on the grounds of the birthmark, which has no bearing on her physical fitness for duty and direct the respondents to act in a lawful and valid manner.

SUBMISSIONS MADE BY THE COUNSEL REPRESENTING THE RESPONDENTS:

11. *Per contra*, learned counsel appearing for the respondents had stoutly opposed the contentions made by the counsel representing the petitioner and along with the Officers who have marked presence via Video Conference had submitted that the scope of judicial review in the present matter is miniscule. It was further contended that, in the absence of any allegations of malafides, the opinion of the medical board, which is composed of qualified and expert professionals, should not be subject to interference by this Court. Learned counsel had further argued that the medical board's decision is final and binding, particularly in cases concerning fitness for service in the Central Armed Police Forces and Assam Rifles. Nevertheless, the role of the judiciary in such matters is primarily to examine whether the decision of the



medical board is arbitrary, discriminatory, or based on extraneous considerations. In the absence of malafides or any gross violation of established norms or principles, it is submitted that this Court should refrain from interfering with the expert opinion of the medical board. Moreover, the medical board, being composed of professionals with specific expertise in determining medical fitness for recruitment, is better positioned to make such determinations.

12. Learned counsel had further submitted that the opinion of the medical board, which is tasked with conducting the medical evaluation for recruitment in the Central Armed Police Forces, should be accorded greater weight than that of any private medical practitioner. The medical board comprises officers and experts who are specially equipped to assess the physical and medical fitness of candidates for the unique and demanding requirements of uniformed services. The counsel for the respondents assert that these experts are better suited to determine whether a candidate's physical condition, including any cosmetic or non-threatening medical conditions, impedes their ability to perform the duties required in such roles.

13. In support of the contentions noted insofar, learned counsel had placed reliance upon the 'Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles', specifically referring to Para 6 (General Grounds for Rejection) and Point 8 (Other Conditions for Rejection), which outline the criteria under which a candidate may be disqualified on medical grounds. According to these guidelines, the presence of a birthmark, particularly if it is deemed to be an impediment to the



physical requirements of uniformed service, qualifies as a disqualifying condition. It was submitted that, based on the findings of the medical board (in review medical examination also) and the relevant provisions in the recruitment guidelines, the petitioner does not meet the medical standards required for recruitment. For the safe of convenience the relevant extract from the afore-relied guidelines is reproduced herein below:

"6. General grounds for rejection:-

..... 20) Any congenital abnormality, so as to impede efficient discharge of training/duties.

B. Others conditions which are to be considered for rejection:-

8. 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 disqualifying."

14. Learned counsel further contended that the judgment enunciated in **Ashok Dukiya (supra)** is not applicable to the present case, as the guidelines referred to therein were not fully considered. The guidelines for medical evaluation, as prescribed by the employer, are comprehensive and must be applied in *toto*. In the instant case, the respondents have followed these guidelines meticulously, and the petitioner's rejection is based on these very criteria. It was further submitted that the medical



board's decision is grounded in the proper application of these guidelines, which take into account the specific medical and physical requirements necessary for recruitment in uniformed services. The birthmark condition in question was determined to be a disqualifying factor under these guidelines, which is why the petitioner was found unfit.

15. Further, reliance was also placed upon the expert medical opinion provided in the additional affidavit, which unequivocally states that the petitioner's congenital melanocytic nevus will interfere with her ability to perform her duties. Precisely, it was contended that the petitioner will be exposed to hot and humid climatic conditions in the course of her duties, which could cause irritation due to the presence of the birthmark. This irritation could impede the petitioner's ability to effectively carry out her responsibilities, thereby justifying her rejection from the recruitment process on medical grounds. The respondents asserted that these findings are based on the professional judgment of qualified medical experts, who have the requisite expertise in assessing the physical demands of the job in question.

16. Learned counsel had placed reliance upon a catena of judgments, a few amongst the others are noted herein as; **Hanuman Lal Jat Vs. Secretary Ministry of Home and Ors. (S.B. Civil Writ Petition No.11669/2016)** decided by Co-ordinate Bench of this Court on 27.04.2017, **Hanuman Lal Jat Vs. Secretary Ministry of Home and Ors. (D.B. Special Appeal Writ No.1259/2017)**, **Jitendra Singh Sandu Vs. State of Rajasthan and Ors. [D.B. CSA(W) No.01/2022]**



decided by Rajasthan High Court on 03.07.2002, **Manish Kumar Shahi Vs. State of Bihar and Ors. (SLP(C) No.26223/2008)**

decided by Hon'ble Supreme Court of India on 19.05.2010, **Aman Kumar Vs. Union of India and Ors. (S.B. Civil Writ Petition No.18240/2024)**, and **Karamveer Vs. Union of India and Ors. (S.B. Civil Writ Petition No.1664/2020)**.

DISCUSSION AND FINDINGS:

17. Upon an assiduous scanning of the record, considering the aforementioned facts and circumstances of the case, considering the judgments cited at the Bar and taking note of the arguments averred by the learned counsel for the parties, this Court at this juncture, deems it appropriate to jot down indubitable facts:-

17.1) That the petitioner is a female candidate belong to the Scheduled Caste (SC) Category who is aged approximately 28 years, hailing from a humble background. This fact can be significant for understanding the socio-economic and cultural context in which the petitioner operates.

17.2) That the petitioner possesses a congenital melanocytic nevus, a birthmark, which is clinically identified as a non-communicable and non-infectious condition. The independent expert's report confirms that it does not pose a health hazard to others by touch or through the air, thus establishing its benign nature. This expert testimony stands unrebutted, implying that the condition is not a medical disqualification.

17.3) Ergo, considering the aforementioned, juxtaposing the averments raised by the learned counsel for the parties, this Court



deems it appropriate to allow the instant petition for the following reasons:

17.4) The review medical board's opinion appears to be legally unsustainable, non-corroborated by a lawful rationale and is, therefore, subject to judicial review. In the absence of any substantiated medical or logical reasoning for the rejection of the petitioner's medical fitness, judicial intervention is warranted.

17.5) That the review medical board had assumed that the petitioner's birthmark may cause irritation in hot and humid climates, without providing any logical or scientific reasoning. Presumptions made in such a manner are unsubstantiated and cannot serve as a valid ground for medical rejection, as they lack a clear nexus to the petitioner's actual condition. Opinio juris meaning that a presumption must be grounded in evidence rather than conjecture. However, no such substantial evidences are presented by the respondents herein.

17.6) Nevertheless, *res ipsa loquitur* meaning that the thing speaks for itself; as in the matter in hand the expert opinion (by JLN Government Hospital, Ajmer) clarifies that the birthmark is medically insignificant and poses no risk. The independent medical opinion provided by the JLN Hospital doctor is in favor of the petitioner's medical fitness. The opinion is not rebutted by the review board, thus strengthening the petitioner's position that there is no medical reason to reject her. Withal, it is noteworthy that it was the respondents who have directed/advised the petitioner to seek an opinion from an independent Doctor. Consequently, the fact is evident from the contents of paragraph



no. 5 of the reply filed by the respondents and the annexed documents, placed at page no. 199-200 of the petition.

17.7) Nonetheless, the petitioner was previously declared medically fit during an earlier selection process carried out by the Border Security Force (BSF), after considering her birthmark (Annexure-8). This prior determination of medical fitness should hold significant weight in the present review process, particularly when the review does not provide substantial new evidence to contradict it.

17.8) The ratio enunciated in **Ashok Dukiya (supra)** directly addressed the issue of medical disqualification due to a birthmark. In that case, the review medical board did not provide justifiable reasons for rejecting the petitioner's application, and the court found the rejection to be arbitrary. Therefore, this judgment is on point and supports the petitioner's case. It also referenced the equivalent guidelines for medical disqualification (Clause-6), which are inapplicable in the petitioner's case, as they pertain to a different condition (Navaur syndrome) which is not relevant to the petitioner's condition.

17.9) All the same, the judgment of Ashok Dukya (Supra) is not assailed/no appeal is preferred qua the same the by judgment debtors therein therefore, it has attained the force of law (*stare decisis*). Given that the judgment is not challenged, it binds the parties and forms the basis for resolving similar issues, as that in the present matter.

17.10) It can also be noted that the advertisement was issued vis-à-vis the post of Constable in the Central Armed Police Forces



(CAPFs), where the likelihood of being assigned to combat duties is minimal. This fact is crucial, as the medical standards required for combat roles might differ from those for administrative or other non-combat duties. Thus, the petitioner's medical condition, which does not affect her daily work or capabilities, should not disqualify her from serving in her current role.

CONCLUSION AND DIRECTIONS:

18. Ergo, in précis it can be noted 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; that the petitioner has also demonstrated that she is not disqualified by the relevant medical guidelines or by any other factor that would preclude her from being considered for this post, especially given her current non-combat role in the CAPFs.

19. In light of the above considerations and upon a careful review of the facts, legal principles, and judicial precedents, it is hereby directed that the petitioner is entitled to be considered for the post of Constable (GD) in the Central Armed Police Forces (CAPFs) under the recruitment process initiated in the year 2024. The petitioner's medical disqualification, based on an unfounded assumption regarding her birthmark, is found to be arbitrary, lacking in sufficient medical or logical reasoning.



20. In light of these factors, it is ordered that the petitioner should be granted the same opportunity as other similarly situated candidates who participated in the said 2024 recruitment process. The Medical Board report dated 09.11.2024 and the Review Medical Board report dated 13.11.2024, declaring the petitioner 'unfit' are hereby quashed and set aside. Further, the petitioner should be given service benefits that are commensurate with those granted to other candidates selected in the same batch, as her exclusion from consideration was based on an unjustifiable and erroneous medical disqualification; within an upper limit of four weeks from the date of passing of this judgment, if the petitioner is otherwise meritorious and eligible.

21. In view of the foregoing considerations and findings, the present petition is hereby allowed. There shall be no orders as to costs. Pending applications, if any, are also disposed of in accordance with the present judgment.

(SAMEER JAIN),J

CHANDAN /