

Court No. - 21

Case :- SPECIAL APPEAL DEFECTIVE No. - 434 of 2025

Appellant :- Mayank Chaudhary

Respondent :- State Of Up And 3 Others

Counsel for Appellant :- Dinesh Kumar Yadav, Pramod Kumar Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Ram Manohar Narayan Mishra, J.

Order on Delay Condonation Application

1. Heard learned counsel for the parties.
2. A short delay of five days in filing the appeal is sufficiently explained.
3. Accordingly, it is condoned.
4. Office is directed to allocate a regular number to the instant appeal.

Order on Memo of Appeal

5. Heard learned counsel for the appellant and Shri Rajiv Gupta, learned Additional Chief Standing Counsel for the State-respondents.

6. The appellant has filed this *intra court* appeal being aggrieved by an order dated 27.05.2025 by which Writ-A No.7474 of 2025 filed by him praying for a writ of *mandamus* directing respondents no.2 and 4 to conduct re-medical examination of the petitioner on basis of his application dated 12.05.2025 was dismissed.

7. The appellant applied for selection in pursuance of an advertisement issued by the respondents for appointment on the post of constable in civil police. He passed the preliminary written examination and underwent physical examination test in which he was declared fit. He qualified the main written examination and was, therefore, permitted to face the Medical Board to examine his fitness, which is the next step in the selection process. In the medical examination held on 28.04.2025 at Reserve Police Lines, Sambhal, he was declared unfit, on account of having squint in the eyes. It seems that the appellant did not accept the report of the Medical Board and filed appeal before the Divisional Medical Board. Therefore, he was re-examined by the Divisional Medical Board at Reserve Police Lines, Moradabad. Again, he was declared unfit. Thereafter, he filed an application on 12.05.2025 before Superintendent of Police, Sambhal praying for re-examination. However, the

said request was not accepted and, therefore, he preferred the writ petition.

8. Learned Single Judge has dismissed the writ petition observing that after declaration of final result on 13.03.2025, no such request could have been entertained.

9. Learned counsel for the appellant submits that the said finding in the order of the learned Single Judge is not sustainable in law inasmuch as the cause of action for filing of the writ petition arose after the declaration of the final result of the written examination on 13.03.2025 and when the appellant was declared medically unfit.

10. Under the Service Rules, no doubt, a candidate is made to undergo medical examination by Medical Board after he has cleared the written examination, however, there is no provision for re-examination after the appeal before the Divisional Medical Board was also dismissed. If that is permitted, the process would be unending and selection would never attain finality. The relevant Rule 15(6) of the Uttar Pradesh Police Constable and Head Constable Service Rules, 2015 is extracted below:

"(6) Medical Examination-

(a) The candidates whose names figure in the select list will be required to appear for Medical Examination by the Appointing authority.

(b) The Appointing authority shall request the Chief Medical Officer of the concerned district to constitute a Medical Board consisting of panel of 3 doctors for conducting the medical examination in consultation with the Director General of Medical Health. The panel will conduct Medical Examination as per "Police Recruitment Medical Examination Forms" as prescribed and codified by the Head of Department of police.

(c) Any candidate not satisfied with his Medical Examination, may file an appeal before the Divisional Medical Board on the day of examination itself. Any appeal with regard to Medical Examination will not be considered if it is filed on any date after the date of his Medical Examination and declaration of its result thereof.

(d) The Medical Board constituted for appeal shall have an expert relating to Medical deficiency of the applicant.

(e) The decision of the Divisional Medical Board on the appeal filed by the candidate about his/her medical examination shall be final and binding on the candidate and no appeal against it will be entertained.

(f) The detailed instructions for conducting Medical Examination will be issued by the Director General of Police.

(g) The candidates found unsuccessful in Medical Examination shall be declared unfit by the Appointing authority and such vacancies shall be carried forward for next selection."

11. Consequently and for the reason noted above, we decline to interfere with the

order of learned Single Judge, as in our considered opinion, the relief prayed for in the writ petition could not have been granted in the facts and circumstances of the case.

12. The appeal lacks merit and is, accordingly, **dismissed**.

(Ram Manohar Narayan Mishra, J.) (Manoj Kumar Gupta, J.)

Order Date :- 16.7.2025

Ankit.