

IN THE SUPREME COURT OF INDIA  
INHERENT JURISDICTION

R.P.(C) No. 1702/2020 in W.P.(C) No. 935/2019

ABHISHEK KUMAR VISHWAKARMA

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.

Respondent(s)

O R D E R

W.P.(C) No. 935/2019 was filed seeking following reliefs:

"Issue a writ, rule, order or direction in the nature of mandamus or any other appropriate writ directing the respondents to refer the petitioner for medical re-examination by the State Medical Board/A.I.I.M.S. or any other medical institute as this Hon'ble Court may deem fit, for the purpose of ascertaining existence of medical condition of 'Knock Knees', and to consider the petitioner for recruitment in terms of report of such medical re-examination."

It was submitted by the petitioner that in the selection process for the posts of Sub-Inspector in U.P. Police, the petitioner had qualified in five stages, namely, Physical Standard Test, Preliminary Written Test, Physical Efficiency Test, Main Written Test and

### Group Discussion.

However, on the ground that the petitioner was suffering from "Knock Knees", the candidature of the petitioner was rejected. In the circumstances, aforesaid writ petition was filed praying inter alia that the matter concerning medical condition of the petitioner be referred to a Medical Board as stated above.

The matter came up before this Court on 15.11.2019 and the following order was passed by this Court:

"The documents appended alongwith the counter affidavit show that in the medical examination conducted on 17.4.2019 and re-medical examination conducted by the Medical Board on 19.4.2019 it was found that the petitioner suffered from "knock Knees" and, therefore, was found unfit to be considered for the post of Sub-Inspector in U.P. Police. In the circumstances, we see no reason to interfere in this writ petition. The writ petition is dismissed"

Thereafter, Review Petition (C) No.1702/2020 was filed by the petitioner annexing statements of various hospitals/Medical Professionals certifying that the petitioner did not suffer from "Knock Knees". Some of the certificates appended to the review petition was as under:

Sl.No.	Name of Hospital/Institute
1.	All India Institute of Medical Sciences, New Delhi ('AIIMS')
2.	Deen Dayal Upadhyay Hospital, New Delhi (DDU Hospital)

3.	Safdarjung Hospital, New Delhi
4.	Moolchand Hospital, New Delhi
5.	Sports Injury Centre, Vardhaman Mahavir Medical College, New Delhi
6.	Max Hospital, New Delhi
7.	Felix Hospital, New Delhi
8.	Sir Ganga Ram Hospital, New Delhi Dr. Deepinder Chaudhary, MS, Mch., (Orthopaedics)
9.	Cygnus Orthocare Hospital, Delhi NABH Accredited.

In the circumstances, while entertain the review petition, this Court in its order dated 22.09.2020 directed as under:

“(a) Let a Board of at least four Medical Professionals shall undertake medical examination of the petitioner afresh. The members of the Board must have experience in their respective fields and atleast one of them must be from King George’s Medical University.

(b) The petitioner shall appear before the Medical Board on 01.10.2020 or on such other date as the Medical Board may deem appropriate.

(c) The medical condition of the petitioner shall be checked by the Medical Board with special emphasis on the issue whether the petitioner suffers from "Knock-knees" or not.

(d) The result of the medical examination shall be submitted by way of an affidavit to this Court within a week of the Medical Examination alongwith relevant X-ray for perusal of the Court.”

A Report dated 12.10.2020 of the Medical Examination

Board consisting of four practitioners has now been placed on record and according to the observations of the Medical Board, the petitioner is not suffering from "Knock-knees".

Ms. Garima Prasad, learned Standing Counsel for the State of U.P. fairly accepted that in view of the finding rendered by the Medical Board, the candidature of the petitioner was wrongly rejected.

In the premises as aforesaid:

(a) We recall our order dated 15.11.2019 and the Writ Petition (C) No.935/2019 is restored to the file.

(b) Having heard learned counsel for the parties, in our view, candidature of the petitioner was wrongly rejected and as such the writ petition deserves to be allowed.

(c) Ordered accordingly. It is directed that the candidature of the petitioner shall be considered for the post of Sub-Inspector in U.P. Police and if necessary, an additional post shall be created to accommodate the petitioner.

(d) The consequential orders of appointment shall be passed by the concerned authorities within four weeks

from today.

(e) The appointment of the petitioner shall come into effect from the date the orders are passed by the authorities and the petitioner shall for all other purposes including seniority and other issues, be entitled from the date of the orders passed by the concerned authorities.

With the aforesaid directions, this review petition as well as the writ petition are allowed. No costs.

Pending applications, if any, also stand disposed of.

.....J.  
[UDAY UMESH LALIT]

.....J.  
[VINEET SARAN]

New Delhi;  
November 17, 2020

ITEM NO.302                      Court 3 (Video Conferencing)                      SECTION X

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

R.P.(C) No. 1702/2020 in W.P.(C) No. 935/2019

(Arising out of impugned final judgment and order dated 15-11-2019 in W.P.(C) No. No. 935/2019 passed by the Supreme Court Of India)

ABHISHEK KUMAR VISHWAKARMA                      Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.                      Respondent(s)

(IA No. 190612/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 17-11-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s)      Mr. Sudhir Naagar, AOR  
                                    Mr. Mohit Singh, Adv.

For Respondent(s)  
                                    Ms. Garima Prashad, AOR  
                                    Mr. Vikas Bansal, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The review petition as well as the writ petition are allowed in terms of the signed order.

Pending applications, if any, shall stand disposed of.

(INDU MARWAH)  
COURT MASTER (SH)

(BEENA JOLLY)  
COURT MASTER (NSH)

(SIGNED ORDER IS PLACED ON THE FILE)