24.09.2026
Item No.02
Court No.11
Avijit Mitra

MAT 1043 of 2026
with
I.A. No. CAN 1 of 2026
with
I.A. No. CAN 2 of 2026

Union of India & Ors.
-Versus-
Md. Ashik Mndal & ors.

Mr. Ram Chandra Agarwal,
Mr. Tapan Bhanja
... for the appellants
Mr. Debasish Kundu,
Mr. Sudeepto Kumar Basu,
Ms. Doyel Dey
....for the respondent no.1

The present appeal has been preferred by the Union of India and its functionaries challenging a judgment dated 05th February, 2026 passed by the learned single Judge in a writ petition being WPA 28698 of 2025. In connection with the present appeal, an application for condonation of delay has been filed.

Upon hearing the learned advocates appearing for the respective parties and considering the materials on record, we are satisfied with the explanation given towards the delay in preferring the appeal. Accordingly, such delay is condoned and the said application being IA No.CAN 1 of 2026 is disposed of. With the consent of the parties, the appeal and the application for stay are taken up for hearing.

Records would reveal that the writ petition was preferred by Md. Ashik Mondal (in short, Ashik) challenging, *inter alia,* a report of the Detailed Medical

Examination Board (in short, DME) dated 14th November, 2025 and a report of the Review Medical Examination Board (in short, RME) dated 21st November, 2025. By the impugned judgment, the learned single Judge was pleased to direct the appellants herein to treat Ashik as a medically fit candidate and to take steps for appointing him to the post of Constable (GD) under CAPFs within a period of two months observing, *inter alia,* that Ashik's candidature could not have been rejected on the ground of *'palmer hyperhidrosis'* (sweating of palm) as such disability does not come within the general grounds of rejection under Clause 6 of the Uniform Guidelines For Review Medical Examination (in short, the said guidelines). The learned single Judge while delivering the judgment took into consideration the report as submitted on behalf of the appellants herein and observed that in the report '*it is not established sweating of palm of the petitioner, as it was found during review medical examination on 21st November, 2025, is related to mental or nervous instability which is contemplated under Clause 6(16) of the revised medical guidelines of May, 2015*'.

Mr. Agarwal, learned advocate appearing for the appellants, at the inception, submits that the learned single Judge ought not to have sat in appeal upon an opinion expressed by an expert body. Both the DME and RME comprised of specialized experts in their respective fields and their assessment could not have been interfered with in the writ petition.

He argues that the highest standards of physical fitness are expected from the candidates seeking recruitment to the subject post due to the arduous nature of the duties performed by the officers under CAPFs. The judgment impugned in the present appeal is contrary to the binding recruitment framework contained in the said guidelines, particularly, Clause 6(16) and Clause 2(h). The learned single Judge could not have interfered on the sole ground that the disability, namely, *'palmer hyperhidrosis'* does not find place in Clause 6 of the said guidelines and is not related to *'mental or nervous disability-evidence of nervous instability'* as provided under Clause 6(16). The condition incorporated in the said guidelines ought to have been considered together and not in isolation. In support of the arguments advanced, reliance has been placed upon a judgment delivered by a Division Bench of the High Court of Delhi in the case of *Shikhar Prasad Vs. Union of India & Ors.*, reported in *2025 SCC OnLine Del 3251*.

Mr. Kundu, learned advocate appearing for Ashik denies and disputes the contention of Mr. Agarwal and submits that *'palmer hyperhidrosis'* is not a sign of anxiety neurosis nor is it associated with tachycardia. Ashik was declared to be unfit for suffering from *'palmer hyperhidrosis'* which does not feature in Clause 6 of the said guidelines pertaining to the general grounds for rejection.

He submits that the finding of the RME was that *'palmer hyperhidrosis'* is a sign of anxiety neurosis and is

associated with tachycardia. In the RME report, it has been further stated that Ashik was having a pulse rate of more than 110 beats per minute and that such pulse rate was associated with tachycardia. However, prior to arriving at such finding it was incumbent upon RME to conduct the required investigation upon hospitalizing Ashik and upon obtaining a hospitalization report, as provided under Clause 7(e) of the said guidelines. Clause 8 of the said guidelines also categorically provides that rejection merely on clinical findings is to be avoided.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

An appellate power interferes not when the order appealed is not right but only when it is clearly wrong. Indisputably, *'palmer hyperhidrosis'* has not been incorporated under Clause 6 of the said guidelines. Clause 6(16) mentions '*mental or nervous instability-evidence of nervous instability.* Clause 2(h) of the said guidelines provides the procedure to be followed for co-relation. The disability of Ashik could not have been brought within the fold of Clause 6(16) and could not have been co-related with the said Clause or with *hypertension/tachycardia* only on the basis of clinical findings without obtaining a hospitalization report, as provided for under Clause 7(e) of the said guidelines. The finding of RME thus suffers from a patent illegality, which is apparent on the face of the records and dehors the provisions of the said guidelines. Such error in the

decision-making process, in our opinion, has been rightly interfered with by the learned single Judge.

It is well known that a decision is an authority for what it decides and not what can logically be deduced therefrom. Even a slight distinction in fact or an additional fact may make a lot of difference in the decision-making process. The judgment delivered in the case of *Shikhar Prasad (supra)* upon which reliance has been placed by Mr. Agarwal is clearly distinguishable on facts. The petitioner therein was declared unfit on account of *'Left Testis absent. H/o Left Orchidectomy'.* Such disability was a disqualification and fell clearly within the specifications in the said guidelines which rendered him ineligible.

The learned single Judge upon dealing with the factual issues arrived at specific findings and we do not find any error in the same warranting interference in the appeal.

Accordingly, the appeal and the connected application for stay are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Partha Pratim Roy, J.) **(Tapabrata Chakraborty, J.)**