



2026:DHC:7146-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 19th August, 2026

Date of decision: 25th August, 2026

CNR No. DLHC010306612026

+ W.P.(C) 9615/2026 & CM APPL. 44842-43/2026

TARUN KUMAR TRIPATHI

(AGED ABOUT 23 YEARS)

CDS EXAMINATION: CDS-II 2025

BATCH NO. D-CDSE/752

UPSC ROLL NO. 0803847

MERIT RANK: 111

S/O SHRI RAJESH KUMAR

R/O H. NO. RZF 626 B, SANJAY GANDHI MARG

RAJNAGAR PART-2, PALAM COLONY

NEW DELHI- 110077

..... **PETITIONER**

Through: Mr. Pushpendra Kumar
Dhaka, Mr. Abhishek
Kumar, Mr. Ravi Kumar,
Mr. Harsh Dhaka, Advs.

versus

1. **UNION OF INDIA, THROUGH**
THE SECRETARY, MINISTRY OF DEFENCE
SOUTH BLOCK, NEW DELHI- 110011
(uoidhc@gmail.com)**RESPONDENT NO. 1**
2. **CHIEF OF THE ARMY STAFF**
INTEGRATED HQ OF MOD (ARMY)
SOUTH BLOCK, NEW DELHI -110011
(uoidhc@gmail.com)**RESPONDENT NO. 2**
3. **DIRECTOR GENERAL**
ARMED FORCES MEDICAL SERVICES



MINISTRY OF DEFENCE 'A' BLOCK,
NEW DELHI-110023RESPONDENT NO. 3
(uoidhc@gmail.com)

4. **THE DIRECTOR GENERAL**
RECRUITING (CDS ENTRY)
INTEGRATED HQ OF MOD (ARMY), WEST BLOCK-III
RK PURAM NEW DELHI-110066
(uoidhc@gmail.com)RESPONDENT NO. 4

Through: Ms Amrita Prakash
CGSC with Siddharth
Srivastava Adv.
Major Anish Muralidhar
Army.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petition under Articles 226 and 227 of the Constitution of India, 1950, seeks the following prayers: -

“(i) To issue a writ directing the respondents to issue Appointment Order and thereby allow the petitioner to join the Indian Military Academy (IMA)-161 course in Army immediately as the petitioner has been declared qualified in all aspects in the recruitment process conducted through Combined Defence Services (CDS-II) Examination 2025.

(ii) Any other relief(s) as may be found necessary and expedient in the facts and circumstances of the case may also be passed.”

2. On 13th August, 2026, after hearing submissions made on behalf of the parties, this Court had passed the following order: -



“1. In the present petition, the prayer is for issuance of direction to the respondent to issue Appointment Order and further direction to the respondent to permit the petitioner to join the Indian Military Academy (IMA)-161 course, with immediate effect, in view of the fact that the petitioner was declared qualified in all aspects in the recruitment process conducted through Combined Defence Services (CDS-II) Examination, 2025.

2. The facts necessary for deciding the present petition are as under:

3. The petitioner, aspiring NDA, applied for the NDA 145 Course in the year 2020 on intermediate qualification basis, i.e., 12th qualification.

4. The petitioner was declared qualified and medically fit and accordingly, he joined the NDA 145 course as an Army cadet on 23rd April, 2021.

5. During the course of a cross country run, the petitioner, having sustained an injury i.e., stress fracture neck of femur (LT.), was recommended for withdrawal from the course on medical grounds on 24th December, 2022 while he was in the Fourth Semester.

6. Subsequent thereto, the petitioner underwent appropriate treatment for the aforesaid medical ailment/injury suffered by him.

7. The petitioner, thereafter, upon completing graduation, appeared for the Coast Guard Common Admission Test for the post of Assistant Commandant and qualified the same. Upon being declared medically fit by the Army Hospital (Research and Referral), New Delhi, he was issued an appointment order dated 02nd January, 2026.

8. Since the petitioner aspired to join the Armed Forces, during the selection process in the Indian Coast Guard-2026 Course, he also applied for the CDS-II Examination, 2025 in which he was declared qualified.



9. However, the petitioner was not issued his joining orders and was not communicated any reasons for the same, which has led to filing of the present petition.

10. Post filing of the counter-affidavit by the respondents, it is brought on record that the petitioner has deliberately suppressed a material fact from the respondents during the process of application and selection viz. his earlier withdrawal on medical grounds from the services of Army.

11. As against this, the counsel for the petitioner states that it is an admitted position borne out of record that the petitioner was withdrawn from the earlier NDA course in view of his having suffered a stress fracture neck of femur (LT.). The same led to the issuance of a certificate to the petitioner for his withdrawal from the course.

12. Subsequent thereto, the petitioner, having qualified the selection process for the post of Assistant Commandant with Coast Guard, was subjected to the medical examination at Army Hospital (Research and Referral), New Delhi, where he was certified to be medically fit for selection and appointment for the post of Assistant Commandant, Indian Coast Guard and was scheduled for undergoing the 2026 course.

13. Since the petitioner was interested in being placed in the Army, he pursued the CDS-II Examination, 2025 and cracked the same.

14. It is urged by the petitioner that his withdrawal from the Army Course on 24th December, 2022, on medical grounds, has got extinguished in view of the medical certification issued by the Army Hospital (Research and Referral), New Delhi, conducted during his assessment for the post of Assistant Commandant, Indian Coast Guard.



15. As such, it is urged that the petitioner cannot be non-suited only on the basis of the earlier medical ground, or it cannot be inferred that there was any intention on the part of the petitioner to suppress or furnish any incorrect information.

16. As against the above, the counsel for the respondent has strenuously urged that once it is borne out of the record, i.e., the '*Report on Accidental and Self-Inflicted Injuries*' annexed at *Annexure P-5*, that the petitioner had suffered a stress fracture neck of femur (LT.) which had led to his recommendation for withdrawal on medical grounds, it was expected from the petitioner to disclose the said information while filling the confidential medical examination report on entry.

17. According to the learned counsel for the respondent, the petitioner, in categorical terms, has stated that the petitioner has been never discharged as medically unfit from any branch of Armed Forces, whereas the fact remains that the petitioner was declared as permanently unfit for any form of future military service as could be inferred from the Show Cause Notice dated 15th December, 2022.

18. It is further urged by the counsel for the respondent that the petitioner was given the certificate of withdrawal, annexed at *Annexure P-6*, to make it clear to him that he has been declared permanently unfit for any form of future military services.

19. Apart from the above, it is the contention of the counsel for the respondent that the petitioner intended to become the part of the disciplined forces, which are entrusted with the duty of guarding the borders and defending the country. The main principles to be adopted by the officials/candidates who are selected are 'integrity' and 'honesty'.

20. In the case in hand, though the petitioner was aware about his history qua his service and his discharge on medical grounds, it was expected of him to disclose the true information.



21. Whether the petitioner has been declared medically fit from the Army Hospital (Research and Referral), while undergoing the selection process for the post of Assistant Commandant, Coast Guard, will hardly be of any consequence in the matter of suppression, which was found to be the basis for not giving the selection/appointment order to the petitioner.

22. At this stage, when confronted, the counsel for the respondent states that the entire record in relation to the 2022 proceedings against the petitioner, whereby he was declared permanently unfit, shall be placed on record by the next date of hearing.

23. List on 19th August, 2026 on top of the Board in the '*Supplementary list*'."

3. Today, learned counsel for the respondents has handed up in Court today, entire record of the proceedings of the year 2022 against the petitioner, with respect to invaliding medical board constituted at the time of petitioner's withdrawal from the National Defence Academy, Khadakwasla (NDA). In addition to that, a two-page document titled as, "Definition of Officer Like Qualities" has also been sought to be placed on record. Learned counsel for the petitioner has also sought to place on record written submissions wherein in addition to his submissions made on the last date of hearing, i.e., 13th August, 2026, it is further urged that competent medical authority of the respondents themselves (AFCME) has certified petitioner 'FIT' for army services in the present recruitment, which is in question. It is further submitted that the medical fitness of the petitioner has to be adjudicated as on the time of the relevant entry and medical examination for the recruitment concerned, and therefore, 2022



invalidment does not operate as a perpetual bar. It is reiterated that the two apex Military establishments (AFCME and Army Hospital, RNR) have given concurrent findings with respect to the medical fitness of the petitioner. The documents handed up by learned CGSC for the respondents as well as learned counsel for the petitioner in Court today are taken on record.

4. Reliance is placed on notification dated 28th May, 2025 issued by Union Public Service Commission in respect of Combined Defence Services Examination (II), 2025, especially on the following portion wherein, disqualifications have been explained: -

“9. DISQUALIFICATION FOR ADMISSION TO THE TRAINING COURSE:

Candidates who were admitted to an earlier course at the National Defence Academy, Indian Military Academy, Air Force Academy, Indian Naval Academy; Officers' Training Academy, Chennai but were removed there from on disciplinary ground will not be considered for admission to the Indian Military Academy, Indian Naval Academy, Air Force Academy or for grant of Short Service Commission in the Army.

Candidates who were previously withdrawn from the Indian Military Academy for lack of Officer like qualities will not be admitted to the Indian Military Academy.

Candidates who were previously selected as Special Entry Naval Cadets but were withdrawn from the National Defence Academy or from Naval Training Establishments for lack of Officer-like qualities will not be eligible for admission to the Indian Navy.



Candidates who were withdrawn from Indian Military Academy, Officers' Training Academy, NCC and Graduate course for lack of Officer-like qualities will not be considered for grant of Short Service Commission in the Army.

Candidates who were previously withdrawn from the NCC and Graduates' course for lack of Officer-like qualities will not be admitted to the Indian Military Academy.”

5. In view of the aforesaid, it is submitted that the disqualifications do not include “previous medical unfitness” or “prior release on medical ground”. It is further submitted that the petitioner was never withdrawn for want of either Officer Like Qualities or on any disciplinary, character or aptitude ground and the sole reason for his withdrawal was the injury as has been mentioned above. It is further contended that there was no suppression of any “material fact” as well as “no deliberate false declaration” was made by the petitioner inasmuch as he had disclosed his joining in NDA in application form, and same is also the admitted case of the respondents.

6. It is pointed out that the fact of examination of the petitioner by Invalidment Medical Board constituted by the respondents was well within their knowledge. Insofar as the answers ‘NO’ in the interrogation form as to whether the petitioner had ever been “rejected” or “discharged” as medically unfit, it is submitted that a cadet/trainee, who was withdrawn/ invalidated on medical grounds during training, would not be considered a candidate, who was “rejected” at selection or “discharged” from service. The answers- ‘NO’, therefore, as per learned counsel for the petitioner, were a



bonafide understanding of ambiguous question, and were not calculated to deceive as otherwise, the petitioner would not have disclosed his NDA attendance and training in his main application in the subject recruitment process.

7. It is further contended that the enquiry as per the interrogation form was neither specific nor internally consistent. It is argued that the relevant document uses the expression “rejection” in one column and “disability” in another, and at no place there is any specific question directed to “invalidment”. Reliance is placed on the judgment of the Hon’ble Supreme Court in **Avtar Singh v. Union of India**¹, to submit that where the query put to the candidate is vague and not specific, no adverse action can be founded on the alleged non-disclosure.

8. It is further contended that aforesaid alleged non-disclosure was not material. It is the submission of learned counsel for the petitioner that suppression of “material” information presupposes that what is withheld “matters”, *i.e.*, its disclosure would have altered the decision on eligibility. Hence, it is argued that prior medical unfitness is not a disqualification under the notification, and as the petitioner has independently been found ‘FIT’ on fresh examination, he cannot suffer any disqualification on account of aforesaid alleged non-disclosure. It is further argued that at the time of withdrawal from NDA, the petitioner was merely a 19-year-old cadet and not an officer or officer-trainee, who could not reasonably be expected to appreciate

¹ (2016) 8 SCC 471



the legal consequences of the invalidment, and his signatures/specimen were obtained on a pre-printed proforma dated 15th December, 2022. It is the case of the petitioner that he did not file appeal against the medical findings dated 15.12.2022 as he had no occasion to contest the same at that relevant point in time, and the same cannot be considered as a lifetime disqualification. It is further the case of the petitioner that the final order of invalidment, stated to be issued in 2024, was never served upon the petitioner and the same therefore, would not bind the petitioner.

9. Learned counsel for the petitioner further submits that since the petitioner has not been granted any disability pension, ex-servicemen status or *ex-gratia* benefits ordinarily extended to soldiers, officers or cadets who are genuinely invalided/medically discharged from service, and absence of any such consequence confirms that, the petitioner does not stand on the footing of a person permanently invalided out of service. Therefore, this cannot be taken as purpose of denying him induction in the present recruitment process.

10. It is finally argued that not every non-disclosure or technical false statement would not entail automatic disqualification. Reliance is placed on a judgment of Hon'ble Allahabad High Court (Lucknow Bench) Division Bench in case of **Siddharth Tiwari v. Union of India and Ors.**², (particularly on paragraphs 23 to 26), to submit that the Courts can intervene if the punishment imposed by an

² W.P. No. 3103 of 2018 decided on 20.06.2018: 2018 SCC OnLine All 2358



authority is “shocking disproportionate” or “grossly in excess” of the alleged fault.

11. For the purpose of doctrine of proportionality, reliance has been placed on the following judgments by learned counsel for the petitioner: -

- a. Commissioner of Police v. Sandeep Kumar, (2011) 4 SCC 644;**
- b. Chairman-cum-Managing Director, Coal India Ltd. v. Mukul Kumar Choudhuri, (2009) 15 SCC 620.**

12. Additionally, it is further submitted that the petitioner was never issued any show-cause notice nor any written reasons and same have emerged only when the present petition was filed and counter affidavit has been placed on record by the respondents.

13. Heard learned counsels for the parties and perused the records.

14. Communication dated 12th March, 2024 with respect to Invaliding Medical Board Proceedings against the Petitioner as Cadet 145 NDA has been placed on record and same reads thus: -



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टेली/ Tele: 011-23060231 एएफनेट/ AF NET: 2112 5172
फैक्स/ Fax: 011- 26163407

BY REGD POST / SDS

महानिदेशक चिकित्सा सेवा (वायु)
Dte Gen Med Services (Air)
वायु सेना मुख्यालय/ Air Headquarters
पश्चिम खण्ड- VII/ West Block-VI
आर के पुरम/ R K Puram
नई दिल्ली- 110066/ New Delhi-66

Air HQ/26461/1/Med-7

12 Mar 2024

Dte of Jt Trg
HQ Integrated Defence Staff (IDS)
(Ministry of Defence)
The Ashoka Hotel, 1st Floor
Room No. 1122, Chanakyapuri
New Delhi- 110021

FWD OF INVALIDING MEDICAL BOARD PROCEEDINGS
CADET TARUN KUMAR TRIPATHI (40901) AF CADET 145 NDA

1. Invaliding Medical Board Proceedings dated 15 Dec 22 in respect of the above mentioned Cadet has been approved by DGMS (Air) on 26 Feb 24.
2. The following medical documents are enclosed herewith for your information and further necessary action: -
 - (a) AFMSF-16 (IMB Proceedings) duly approved by DGMS (Air).
 - (b) A copy of Note Sheet (N-17) dated 12 May 23 on file No. Air HQ/26461/ 1/Med-7 duly concurred by CAS.
 - (c) Copy of MoD/D (Med) Note sheet N-20 [Dy No. 18/24/D (Medical)] dated 13 Feb 24 rejecting the appeal filed by the above mentioned Cadet against IMB proceedings on medical ground.


(VR Singh)
Wg Cdr
Wg Cdr MS (MB)

Annexure: As stated

Copy to:

NDA Khadakwasla : With an approved copy of IMB in respect of the cadet.
Pune- 411023

Dte of Air Veterans-1B : With an approved copy of IMB in respect of the cadet.
Subroto Park,
New Delhi-10

15. A perusal of the aforesaid communication would reflect that invaliding medical proceedings dated 15th December, 2022 with



respect to the petitioner was approved by DGMS on 26th February, 2024. The said communication further refers to Note Sheet (N-20) dated 13th February, 2024, whereby appeal filed by the petitioner against the IMB proceedings on medical ground was rejected.

16. Part-VII of the aforesaid Invalidation Medical Board proceedings further records as under: -

PART VII OPINION OF THE MEDICAL BOARD			
1. Please endorse diseases/disabilities in chronological order of occurrence			
Disability	Attributable to service (Y / N)	Aggravated by service (Y / N)	DETAILED JUSTIFICATION
FRACTURE NECK OF FEMUR (LT) (S72.03)	Yes	No	Disability conceded attributable to mil service as per injury report IAFY-2006 initiated on 22 Aug 2022 & finalised on 09 Nov 2022 (copy att)

“

Member
MALIK
AMC

Member
Narayan Vijaya
Lt Col
AMC

(Tony Jose)
Brig President
Commandant
AMC

”

17. The aforesaid medical documents/record further demonstrate that the petitioner had refused to undergo operation/treatment after having been explained the effects of the same. It further records that the medical board has considered it probable that the operation/treatment would have cured the disability and reduced it in percentage probably by 50%. Similarly, it has been further recorded that the medical board did not consider the petitioner's refusal to operation as reasonable as in its opinion, the petitioner was 'advised



Percutaneous screw fixation and was counselled about bad prognosis if surgery is not undertaken'. The following portion from the medical record is reproduced hereinbelow: -

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-8-

Service No : 40901 Rank Cadet
Name : Tarun Kumar Tripathi

2. (a) Was the disease/disability attributable to the individual's own negligence or misconduct? If Yes, in what way? No

(b) If not attributable, was it aggravated by negligence or misconduct? If so, in what way and to what percentage of the total disablement? No

(c) Has the individual refused to undergo operation / treatment? If so, have the individual's reasons will be recorded. *Note :-In case of refusal of operation/treatment a certificate from the individual will be attached.* Yes (Unwilling certificate enclosed)

(d) Has the effect of refusal been explained to and fully understood by the individual, viz, a reduction in, or the entire withholding of any disability pension to which he/she might otherwise be entitled? Yes

(e) Does the Medical Board consider it probable that the operation / treatment would have cured the disease/ disability or reduced its percentage? Yes, as per spl opinion.

(f) If the reply to (e) is in affirmative, what is the probable percentage to which the disease / disablement could be reduced by operation/treatment? Probably 50% for dis.

(g) Does the Medical Board consider individual's refusal to submit to operation / treatment reasonable? Give reasons in support of the opinion specifying the operation/treatment recommended. No, As per spl opinion individual adv Percutaneous screw fixation. He was counselled about bad prognosis if surgery is not undertaken.

(h) Does the individual claim to be suffering from any other disease / injury apart from those listed in Para 3 of Part - II No

3. What is present degree of disease /disablement as compared with a healthy person of the same age and sex? (Percentage will be expressed as Nil or as follows): 5%, 10%, 15% and thereafter in multiples of ten from 20% to 100%. (Composite percentage should be rounded off to the nearest multiple of 10)

Disease /Disability (As numbered in Para 1 Part IV)	Percentage of disablement	Corresponding para of GMO-2018	Composite assessment for all disabilities (Max 100%) with duration	Disease /Disability Qualifying for Disability Pension with duration.	Net Assessment Qualifying for Disability Pension (Max 100%) with duration
FRACTURE NECK OF FEMUR (LT) (S72.03)	20% (Twenty percent) (Reduced for 50%) 10% (Ten percent) (Surgery Unwilling cert attached)	As per para 31 (b) to CH-VII of GMO (MP) 2008 and based on Spl Opinion.	10% (Ten Percent) for life.	Yes for life for FRACTURE NECK OF FEMUR (LT) (S72.03).	10% (Ten Percent) net for life.

Note: Assessment of disabilities not mentioned in the Guide to Medical Officers(Mil Pens) is to be done on the basis of best available medical evidence.

4. Is the individual in need of further treatment and, if so, of what nature and for how long is it likely to be required?
(As per specialist opinion)

5. Does the individual require constant attendant? If so how long? No

Narayane Vijaya
Brig Decadent



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18. By way of certificate for commutation of pension dated 15th December, 2022, the petitioner was certified for commutation of pension and was given fitness certificate for civil employment. The said certificate for commutation of pension dated 15th December, 2022 is reproduced as under: -

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Indl Sig:
Service No: 40901 Rank: CDT
Name: TARUN KUMAR TRIPATHI

CERTIFICATE FOR COMMUTATION OF PENSION

The medical board having carefully examined No **40901** Rank **CADET** Name **TARUN KUMAR TRIPATHI** Unit **J/ND A Khadakwasla** are of the opinion that :

The individual is suffering from **1. FRACTURE NECK OF FEMUR (LT)(S72.03)** but is otherwise in good bodily health and has the prospect of an average duration of life. Commutation of pension in his / her case is therefore, recommended for acceptance.

OR

The individual is suffering from **1. FRACTURE NECK OF FEMUR (LT)(S72.03)** and as the consequence there of he / she is not in good bodily health and does not have the prospect of an average duration of life. The Medical Board therefore, does not recommend acceptance of commutation of pension in his / her case.

OR

The individual is suffering from **1. FRACTURE NECK OF FEMUR (LT)(S72.03)** The medical board is of the opinion that he is not in good bodily health and does not have the prospect of an average duration of life. The medical board however, recommends compliance with his application to be allowed to capitalise a portion of his pension by Rank, on his / her age for the purpose of commutation i.e. his age next birth day should be year (s) more than his actual age.

Signature of Individual
Date **15/12/2022**

(Tony Jose)
Brig
Commandant
Signature of President
Date **15 DEC 2022**

Notes.

1. Addition to actual age should be indicated in full years.

2. While furnishing the above certificate, medical board should bear in mind that the recommendation for commutation, or otherwise in pension is not related to the diagnosis as such but the likely effect which the disability has on the individual's longevity of life. Disabilities, which do not affect longevity, should invariably be recommended for full commutation of pension as admissible.

3. However where the disability is likely to effect the longevity of an individual the medical board should consider whether commutation should not be recommended at all or recommended with loading of age. In other words, if the disability is so severe that longevity of the individual has been seriously curtailed, they should not recommend commutation of pension at all. If on the other hand, they feel that the longevity of the individual has diminished but, not severely they may determine in imaginary age of the individual which, accept to his existing condition would correspond to the residual longevity and recommend that the age of the individual be reckoned as such. For example in IHD case, if the individual's disease is fully compensated and is without any complications, he may be considered to have normal chances of longevity. However, in case of severe infraction not fully compensated where chances of longevity are not considered to be equal to those of a normal person the board should recommend addition of appropriate number of year / years to the actual age for commutation purposes. This is known as "Loading of age".

(Tony Jose)
Brig President
Commandant
Date **15 DEC 2022**

(Narayan Vijaya)
Lt Col
Member
AMC

(Tony Jose)
Brig President
Commandant
Date **15 DEC 2022**

19. Further, it is pertinent to note that a note with respect to “Employability of Armed Forces Person Retiring In Low Medical



Category” also forms part of the aforesaid proceedings, which is reproduced as under: -

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Indl Sig. *[Signature]*
Service No: 40901 Rank: CDT
Name: TARUN KUMAR TRIPATHI

EMPLOYABILITY OF ARMED FORCES PERSON RETIRING IN LOW MEDICAL CATEGORY

The inherent stress and strain in the military service has been recognized the world over as Armed Forces personnel stay away from their family during a major portion of service in a regimented lifestyle under a strict disciplinary code in harsh and hostile environmental conditions. Consequently, for personnel serving in such conditions, even common ailments such as hypertension, Diabetes, CAD, minor psychiatric illnesses or psychosomatic disorders are bound to get aggravated by all domestic events such as property disputes, family problems, education of children, etc.

Additionally, the progressive provisions of Section 20 of 'The Rights of Persons with Disabilities Act, 2016' have not been made applicable to the Armed Forces as they are meant to retain a fighting fit profile. Whereas, under the same Act, a civilian Government employee if disabled under any circumstances will be paid full pay and allowances till the age of 60 years and full pension thereafter. Thus, many a times, personnel cannot be retained in service inspite of their being fitter than their civilian counterparts.

Low Medical Category (LMC) in the Armed Forces is for conditions specific to service and is meant for employability restrictions for varied climatic conditions / terrain deployment/active war service/Operational requirements etc. Post retirement, once the stressors of Armed Forces have ceased to exist, the individual would be able to perform routine/regular duties in a normal manner just like any other civilian.

Therefore, this fitness certificate of employability as on date of signing is being issued with the specific intent and purpose to convey to all prospective employers regarding the ability of the concerned ex-serviceman, whose particulars and details have been provided below.

FITNESS CERTIFICATE FOR CIVIL EMPLOYMENT

To whomsoever it may concern:

1. This is to certify that No. **40901**, Rank **CADET**, Name **TARUN KUMAR TRIPATHI**, is being released from service in Low Medical Category for the following conditions:

1. FRACTURE NECK OF FEMUR(S72.03)

2. He / She is:

सर्वोच्च न्यायालय
Med Board
MH Kirkee

(a) FIT FOR ALL TYPES OF EMPLOYMENT IN CIVIL.
(b) FIT FOR ONLY SEDENTARY EMPLOYMENT IN CIVIL.
(c) FIT FOR ALL EMPLOYMENT NOT INVOLVING HEAVY MACHINERY / MOVING PARTS.
(d) FIT FOR EMPLOYMENT IN CIVIL REQUIRING HIGH PHYSICAL / MENTAL FITNESS.
(e) ANY OTHER (SPECIFY) **15 DEC 2022**

(AUTH: RMB / IMB dated 1 / 12 / 2022, held at **MH KIRKEE**)

Note: This certificate will be an integral part of Service Book of all Ex-servicemen. The Service Book copy will be signed by concerned Record Officer quoting authority of RMB/IMB with date.

[Signature]
Narayani Vijaya

[Signature]
Narayani Vijaya

(Tony Jose)
Brig
Commandant



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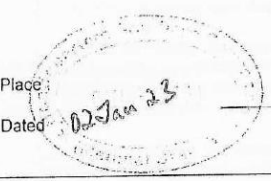
20. A perusal of the aforesaid documents would demonstrate that the petitioner was admittedly invalidated out from NDA, Khadakwasla. The sequence of recommendation of the medical proceedings as well as the confirmation of the subsequent authorities is as under: -

Service No : 40901 Rank Cadet
Name : Tarun Kumar Tripathi

Invalidment / Release in Medical Category : SIH1A5P1E1
DIAG : (a) FRACTURE NECK OF FEMUR (LT) (S72.03)


Place : Kirkee
Dated : 15 DEC 2022
ADHAV M
CAPTAIN AMC
MEDICAL OFFICER
Narayana Vijaya
Lt Col AMC
(Tony Jose)
Brig Sig of President
Commandant
MH Kirkee


Place : Kirkee
Dated : 27 DEC 2022
APPROVING AUTHORITY
APPROVED
(पुनीत यादव)
(Punit Yadav)
मेजर जनरल
Major General
एम जी (मेडिसिन)
MG (Medicine)
मुख्यालय महाराष्ट्र, गुजरात और गोवा एरिया
HQ Maharashtra Gujarat & Goa Area


Place :
Dated : 02 Jan 23
CONFIRMED
CONFIRMED


Place :
Dated : 26 Feb 24
ACCEPTING AUTHORITY
Sd/-
Brig Sig of President
Commandant
MH Kirkee
New Delhi-110060



21. Sequence of the aforesaid would reflect that the recommendation of the invalidment of the petitioner was recommended on 15th December, 2022, which was approved by the approving authority on 27th December, 2022, and was confirmed by the confirming authority on 2nd January, 2023, and was finally accepted by the accepting authority on 26th February, 2024.

22. The relevant entries in the interrogation in the Medical Examination Report On Entry dated 13th February, 2026, along with answers to the questions mentioned under the heading 'Personal History' as given by the petitioner are as under: -



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8076465971

CONFIDENTIAL
MEDICAL EXAMINATION REPORT ON ENTRY

MEDICAL EXAMINATION HELD AT AFCE

1. Name: ARUN KUMAR TRIPATHY 2. Date of Birth: 18/04/2003 3. Married or Single: Single 4. Hours: Flow

P.NO. _____ Rank: _____ Sex: MALE

(For service candidate only)

5. Service: Army / Navy / Air Force 6. Arm / Corp / Branch / Trade: _____

7. Permanent Address: Ref. 626 B, Sanjay Gandhi Marg, Raj Nagar, Delhi 110032 8. Identification Marks: Mole on left side of forehead
Injury mark on right wrist

PERSONAL STATEMENT

9. FAMILY HISTORY

Relation	Age (yrs)	If Alive		If Expired	
		Health	Cause of Death	Died (yrs)	
Father	<u>62</u>	<u>Healthy</u>			
Mother	<u>51</u>	<u>Healthy</u>			
Brother / Sister	<u>18</u>	<u>Healthy</u>			
Any Family History of	Hypertension <u>NO</u>	Heart Disease <u>NO</u>	Diabetes <u>NO</u>	Bleeding Disorder <u>NO</u>	Mental Disease <u>NO</u>
					Night Blindness <u>NO</u>

10. PERSONAL HISTORY

Have you suffered from any of the following illnesses / conditions?

Illness	(Yes / No)	Illness	(Yes / No)
Chronic Bronchitis / Asthma	<u>NO</u>	Discharge from ears	<u>NO</u>
Pleurisy / Tuberculosis	<u>NO</u>	Any other Ear Disease	<u>NO</u>
Rheumatism / Frequent Sore Throats	<u>NO</u>	Frequent Cough & Cold / Sinusitis	<u>NO</u>
Chronic Indigestion	<u>NO</u>	Nervous Breakdown / Mental illness	<u>NO</u>
Kidney / bladder trouble	<u>NO</u>	Fits / Fainting Attacks	<u>NO</u>
STD	<u>NO</u>	Severe Head Injury	<u>NO</u>
Jaundice	<u>NO</u>	(For Female Candidates only)	
Air, Sea, Car, Train sickness	<u>NO</u>	Breast Disease / Discharge	
Trachoma	<u>NO</u>	Amenorrhoea / Dysmenorrhoea	
Night Blindness	<u>NO</u>	Menorrhagia	<u>NA</u>
Laser treatment / Surgery for Eye	<u>YES</u>	Pregnancy	
Any other Eye disease	<u>NO</u>	Abortion	

Have you ever been rejected as medically unfit for any branch of the Armed Forces? (Y/N) NO

Have you ever been discharged as medically unfit from any branch of the Armed Forces? (Y/N) NO

Have you ever been admitted in hospital for any illness, operation or injury? (Y/N) NO

If so, state the nature of the disease and duration of stay in hospital.

Any other information you can give about health?

I hereby declare that I have answered as fully as possible all the questions about my family and personal health and that the information given is true to the best of my knowledge.

Signature of Medical Officer: _____ Date: 13/02/2026

Signature of Candidate: _____ Date: 13/02/2026

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(emphasis supplied)

23. Even if, this Court accepts that contention of learned counsel for the petitioner that the withdrawal of the petitioner being medically unfit from the NDA in December 2022 would not be relevant in the present case, the other two relevant information as sought and answered by the petitioner in the aforesaid Medical Examination Report in entry with regard to the petitioner being “discharged as medically unfit from any branch of the Armed Forces”, or “ever been



admitted in hospital for any illness, operation or injury?”, would be relevant for the purpose of the present recruitment process.

24. Regarding the contention raised on behalf of the petitioner that, the final approval from the confirming authority with regard to medical invalidation of the petitioner from NDA, Khadakwasla, was not communicated to him, suffice it to note that, same was an admitted position that he was well aware of the medical invalidation proceedings and on account of said proceedings, he was discontinued and found permanently unfit for any form of further military services. The show cause notice dated 15th December, 2022, issued to the petitioner in respect of the said invalidating medical proceedings is reproduced as under: -



2026:DHC:7146-DB



No : 40901 Rank : CADET Name : TARUN KUMAR TRIPATHI

Unit address NDA KHADAKWASLA

Name of NOK DR. RAJESH KUMAR Relation – FATHER

Permanent Address of NOK- RZF 628 B Sanjay Gandhi Marg, Rajnagar 2 Palam Colony, New Delhi-110077

INVALIDMENT MEDICAL BOARD : ISSUE OF SHOW CAUSE NOTICE

1. Refer to Para 424 (c) of RMSAF-2010 and Para 8 (c) of AO 513/71 and Para 15A of Army Rule 1954
2. You are found to be suffering from 'FRACTURE NECK OF FEMURE (LT) (S72.03)' and as such found permanently unfit for any form of further military service. Medical Board of this hospital intends to place you in medical category SHAPE-5X, Disability Profile A5 for the disability 'FRACTURE NECK OF FEMURE (LT) (S72.03)'. After final approval of the competent medical/administrative authorities you will be invalidated out from military service
3. Appeals, if any against the decision of the medical board may please be submitted to the Chief of Army Staff through the President Medical Board, Military Hospital Kirkee within 15 days from the date of receipt of this letter.

Signature of Indl

Unit: MH Kirkee

Date : 1 Dec 2022

(Tony Jose)
Brig
President Medical Board

25. Although, an opportunity to appeal against the aforesaid opinion was given to the petitioner; however, it is the latter's case that he had never filed an appeal assailing the findings of the medical board, and therefore, he never got to know the final outcome of the final approval by the competent authority, and thus as per him, he was never discharged as medically unfit from any branch of armed forces. However, the third relevant information sought in the medical examination report in entry was with regard to his admission in hospital for any illness, operation or injury, which was very well within the knowledge of the petitioner as he suffered from an injury in



the year 2022; however, he chose not to disclose the same to the respondents and answered in a categorical 'NO'. Whether such non-disclosure is material or not has to be considered in the context of the recruitment process for which the information was sought. Admittedly, the said information was sought by the Officers of AFCME, who were conducting the medical examinations. Had this information of the surgery or injury being given to the concerned authorities then, the medical examining authorities would have proceeded to determine, whether said disability has continued or would be still considered as disqualification for the subject recruitment process.

26. Reliance placed by the learned counsel for the petitioner on the medical certificates issued by AFCME and Military Hospital (R & R), would not come to the aid of the petitioner inasmuch as the issue on which the petitioner was earlier invalidated out of service was never brought to the notice of said authorities in order to facilitate them for comprehensively examining the petitioner, and giving their opinion.

27. Learned Coordinate Bench of this Court in **G.C. Abhimanyu Singh v. Union of India and Ors.**³, while dealing with a similar situation regarding the non-disclosure of relevant information, had held and observed as under: -

“2. The petitioner applied for permanent commission in the Army in response to an advertisement dated

³ 2017 SCC OnLine Del 6864



27.04.2013, after completing his B.Tech in Computer Science. The petitioner was called for an interview before the Service Selection Board (SSB) for selection to the Technical Graduate Course, hereinafter referred to as TGC-118 course at Allahabad, between 19.10.2013 and 23.10.2013.

3. The petitioner was called for medical examination to the Military Hospital at Allahabad, but was found medically unfit on the ground of “Congenital Absence of Middle and Distal Phalanx of Right Hand Index Finger”. The petitioner filed an appeal against the findings in medical examination, but was found medically unfit by the Appeal Medical Board, on the same ground.

4. Thereafter, the petitioner made a representation dated 20.11.2013 to the Director Medical Services (Medical Boards) R.K. Puram, New Delhi, for constitution of a Review Medical Board, at the Army Research Referral Hospital, Delhi Cantonment, for further examination of the petitioner. The petitioner was, however, never called for further examination by the Review Medical Board.

5. The petitioner again applied, this time for the short service Commission in the Army, and was called to appear for interview for the SSC (T)-44 Course at Bhopal. After interview, the petitioner was selected. The petitioner was recommended for selection for Pre Commission Training at the Officer's Training Academy, Chennai.

6. The petitioner was called for medical examination at the Military Hospital at Bhopal. He was found medically fit for the SSC (T)-44 Course for Pre Commission into the Indian Army.



18. The respondents have filed a counter affidavit to the writ application. In the counter affidavit, it is pleaded that at the time of medical examination, the petitioner had to fill in a report, which he duly signed. From the report, copy whereof has been annexed to the writ petition, it is patently clear that he had suppressed the fact that he had earlier been declared medically unfit at the time of his selection to the TGC 118 Course.

20. There can be no doubt that Army service requires the highest degree of physical fitness. There is substance in the contention of the respondents, that the defect in the right index finger, which is the trigger finger, (Congenital Absence of Middle and Distal Phalanx of Right Hand Index Finger) would adversely affect the ability of the petitioner to effectively use weapons.

22. Furthermore, the petitioner has apparently obtained admission for the Pre Commission training at the Officers Training Academy, Chennai, by misrepresentation and/or gross suppression of a material fact. The petitioner misled the authorities by suppressing his earlier disqualification by the Medical Board as also the Appeal Medical Board, at the time of his selection to the TGC-118 course at Allahabad. The petitioner ticked 'No' in the column where he was required to state if he had earlier been disqualified in any medical examination for appointment to any armed force."

28. Similarly, in **Harsh Chauhan v. Border Security Force**⁴, another Coordinate Bench of this Court has observed and held as under: -

⁴ 2023 SCC OnLine Del 7799



“2. Pursuant to an advertisement issued by the respondent for recruitment to the posts of Head Constable (Radio Operator) and Head Constable (Radio Mechanic). Petitioner applied and was successful in the qualifying examination. Detailed Medical Examination was also conducted and petitioner was declared fit. Thereafter by the impugned letter dated 03.08.2023, petitioner was informed that he has been declared medically unfit to continue in BSF due to “AMPUTATION OF TERMINAL PHARYNX OF YOUR LEFT INDEX FINGER”.

4. Per contra, learned counsel for respondents submits that medical is only provisional medical and all serving officers and personnel below officer rank are subjected to medical examination from time to time and it is only subject to their fitness that they continue in the Force. He further submits that petitioner at the time of filling up of the application form had also given mis-declaration that there was no injury to his finger. He submits that it was disclosed only later that there was an injury to the finger and as per advertisement and the application form, wrong declaration itself is a disqualification and the candidature is liable to be terminated.

5. The original record of petitioner has been produced in the Court. In the original application form with regard to a question as to whether the applicant ever had or has “broken bone (fracture), united without any surgery or required surgery to repair”, the petitioner has categorically stated “Answer - No”. The application form also contains a declaration at the end to the effect that all the answers are true and correct and confirms that the candidate shall be liable for action under law for any material infirmity in the information furnished or suppression of relevant material information. It further



certifies that furnishing false information or suppression of any factual information would be a disqualification and liable to render the candidate unfit for employment under the government. There is a further declaration that if false information had been furnished or that there had been suppression of any factual information which comes to notice at any time during service, the service would be liable to be terminated.

7. In the instant case, we notice that petitioner has given an incorrect declaration about not sustaining any injury or fracture prior to the filling up of the application form. The application form was signed on 23.02.2023 and in the declaration given later, he has certified that he had sustained an injury in the year 2016. The subject injury, which has become a ground for disqualification, was sustained much prior to filling up of the application form, clearly there is suppression of a material fact by the petitioner with regard to an injury sustained earlier.

9. Clearly petitioner suffered from an ailment which was a disqualification under the said Rules and petitioner was not liable to be appointed being unfit. Mere fact that a provisional appointment is given to the petitioner would not enure to the benefit of petitioner as the provisional appointment itself was contrary to the medical guidelines and being provisional in nature could have been revoked till confirmed as has happened in the instant case.

10. The judgment relied upon by the learned counsel for petitioner of a Co-ordinate Bench dated 24.05.2017 in W.P. (C) 3208/2016 titled *Ravi Kumar v. Union of India* would not be applicable to the facts of the present case in as much as there is clear concealment and misrepresentation made by petitioner in the application



form which in itself is a ground for disqualification. Relief under Article 226 is a discretionary relief and discretion cannot be exercised in favour of a person who has clearly made a misrepresentation and secured provisional appointment based on a misrepresentation and incorrect declaration.”

29. In the present case, under the heading personal history, the relevant entries filled up by the petitioner in the Medical Examination Report on Entry read thus: -

“

“Have you ever been rejected as medically unfit for any branch of the Armed Forces	(Y/N) No
Have you ever been discharged as medically unfit form any branch of the Armed Forces	(Y/N) No
Have you ever been admitted in hospital for any illness, operation or injury? If so, state the nature of the disease and duration of stay in hospital.	(Y/N) No
Any other information you can give about health?	--"

30. The information sought in aforesaid entries was material for the purpose of the present recruitment, and the same has not been disclosed by the petitioner. He has, in fact, denied his admitted medical history.

31. So far as the contention of the learned counsel for the petitioner that no show cause notice was being issued to the petitioner, it is noted that there was no appointment letter issued in favour of the petitioner for appointment in the subject recruitment process of CDS-II 2025 examination, and the name



of the petitioner was in the provisional list subject to medical examination to be undergone by him, and the recruitment process in the present case was yet to be completed. Thus, non-issuance of the show cause notice has not caused any prejudice to the petitioner.

32. In view of the aforesaid discussion, no ground for grant of relief sought by the petitioner with respect to direction to respondents for issuance of appointment letter allowing the petitioner to join the Indian Military Academy (IMA)-161 course in Army is made out.

33. The present petition is accordingly dismissed and disposed of.

34. Pending application (s), if any, also stands disposed of.

35. Judgment be uploaded on the website of this Court, *forthwith*.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**AMIT SHARMA
(JUDGE)**

AUGUST 25, 2026/bsr/ns