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Original Application No. 2563 of 2001

New Delhi, this the 17th day of September, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)
HON'BLE MR. M. P. SINGH, MEMBER (A)

Vijender Kumar Meena
S/o Shri Nathua Ram
6/73, AIIMS, Ansari Nagar,
New Delhi-110 029.

....Applicant

By Advocate: Dr. Surat Singh with Ms. Mamta Rani.

Versus

1. Union of India
through the Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances
and Pension,
Block No.12, Kendriya Karyalay Parisar,
Lodhi Road,
New Delhi-110 003.
2. Assistant Director,
Staff Selection Commission,
Northern Regional Office,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances
and Pension,
Block No.12, Kendriya Karyalay Parisar
Lodhi Road,
New Delhi-110 003.

By Advocate: Shri S.M. Arif, Counsel for the respondents.

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

Applicant by filing this OA has assailed memorandum dated 27.4.2001 (Annexure A-6) vide which the applicant who had qualified the Combined Graduate Level Examination, 1999 for Sub Inspector in CPOs was informed that while examining him for physical standards the PET board for physical parameters had considered him under the Tribals category whereas the applicant belongs to ST category thus the applicant was not entitled to claim relaxation in height. It was also informed that the


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candidates who intend to seek relaxation in height etc. are required to produce a certificate from the competent authority and during the course of detailed examination and scrutiny of application dossier on the date of interview it was discovered and noted that applicant belongs to ST category and not to Tribal areas and as per para (III)(i)(c) of the Notice of Examination which clearly lays down that the relaxed standard of 162.5 c.m. in height is applicable to all Tribals/Adivasis including Mizos and Nagas. It was further informed that applicant belongs to ST category and not to Tribal Areas so the applicant is not eligible for relaxation.

2. In order to assail the impugned order, the applicant submitted that as per advertisement of the respondents the required height was 162.5 cms for ST candidates and applicant's height is 163 cms so he had qualified as per the advertisement and by issuing this memo, the respondents have taken a unreasonable and arbitrary stand that applicant do not belong to Tribal/Adivasis including Mizos and Nagas so he is not eligible for this concession in height.

3. The applicant further stated that earlier notice had declared that the applicant has qualified the Physical Efficiency Test so that is why he was declared qualified for interview, thus he is entitled to be considered for SI, CPO.

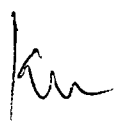
4. The OA is being contested by the respondents. The respondents insisted that in the advertisement issued for this purpose the respondents have clearly given the



physical standards as applicable to general category candidates belonging to hill areas and candidates who are Tribals/Adivasis/Mizos/Nagas. Since the applicant neither belong to hill areas or since he is Mizos and Nagas so he was to be examined for the purpose of height which is general standard which is 170 cms. The department has also asked for a clarification from the Ministry of Home and as per the clarification it has been clearly mentioned that the relaxation is to be given to those persons who belong to hill areas or Tribals/Adivasis including Mizos/Nagas and since the applicant does not belong to Tribals or Adivasis including Nagas/Mizos, he cannot claim that he should be appointed SI, CPO since he has height of 163 cms.

5. Refuting this argument, the learned counsel for the applicant submitted that under the Constitution of India the word Tribal has been used as an alternative word for Scheduled Tribe (ST). For this purpose the learned counsel for the applicant has particularly referred to Article 342 (1) of the Constitution of India.

6. The learned counsel for the applicant then also referred to the Gazetted Notification as annexed to the rejoinder at page 6 wherein it is provided that the minimum height which is relaxable for candidates belonging to Schedules Tribes and to races such as Gorkhas, Garhwalis, Assamese, Kumaonis, Nagaland, Tribal etc. whose average height is distinctly lower. He has further referred to an advertisement of SI for Combined



Level Graduate Examination wherein also with regard to physical standards it has been mentioned that the relaxation is available to all the members of ST.

7. We have heard the learned counsel for the parties and considered these documents.

8. As regards Gazette notification is concerned, we find that this is applicable for certain specified services for which examination is conducted by UPSC and relaxation to physical standard have been appended as Appendix III. The language used in Appendix III is as under:-

" The minimum height prescribed is relaxable in the case of candidates belonging to Scheduled Tribes and to races such as Gorkhas, Garhwalis, Assamese, Kumaonis, Nagaland, Tribal etc. whose average height is distinctly lower".

9. The bare reading of this paragraph quoted above would show that through this Gazetted Notification the Government intends to relax as far as the height is concerned for those Scheduled Tribes and to races who are basically from hill areas and whose average height is distinctly lower and it is only for this purpose the department had asked for a clarification from the Government of India and the Government of India vide letter dated 19.10.2001, Annexure R-I, has clarified the position as under:-

" 1. Physical Standards

The candidates must meet the following requirements:-

Height	Men	Women
	170 cms.	155 cms.

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Relaxation

Men

Women

Candidates belonging to Hill areas 165 cms 155 cms
 of Garwal, Kumaon, Himachal Pradesh
 Gorkhas, Dogras, Marathas, Sikkimies
 Leh and Ladakh, Kashmir Valley and
 North Eastern States.

Tribals/Adivasis including Mizos 162.5 cms 154 cms
 Nagas".

10. The reading of this would also suggest that physical standard for general candidate is 170 cms and candidates belonging to hill areas of Garwal, Kumaon, Himachal Pradesh Gorkhas, Dogras, Marathas, Sikkimies Leh and Ladakh, Kashmir Valley and North Eastern States for men is 165 cms. It is only for the Tribals/Adivasis including Mizos and Nagas that height has been prescribed as 162.5 cms.


11. Since the applicant though belongs to ST Meena but he does not belong to the hill areas nor he belongs to Tribal/Adivasis including Mizos and Nagas so the relaxation in height standard is not available to the applicant as he does not belong to any of the Tribal area to which the relaxation is applicable or to an area where average height is distinctively lower.

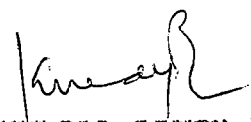
12. Besides that in the advertisement issued for the purpose of recruitment in response to which the applicant has applied that also prescribes physical standard which is in conformity with the clarification issued by the Government as per Annexure R-I. This advertisement have not been challenged by the applicant at all. The prescribing of standards of height as given in the advertisement is not stated to be violative of constitutional provisions or any statutory rules

providing for relaxation in standard of height so we find that the applicant's case has been rightly rejected vide Annexure A-6 and the applicant has been rightly held to be not eligible for SI, CPO and his candidature has been rightly rejected.

13. No other contention has been raised before us.

14. In view of the above, OA has no merits and the same is dismissed. No costs.


(M.P. SINGH)
MEMBER (A)


(KULDIP SINGH)
MEMBER (JUDL)

/Rakesh