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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O A No. 1952/99

New Delhi: this the 18th day of April, 2000.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Jitender Kumar,
S/o Sh. Lal Singh,

R/o Village & P.O. Sisoli,
Zila Muzaffar Nagar, UP

..... Applicant.

(By Advocate: Mrs. Sumedha Sharma).

Versus

1. Commissioner of Police,
Police Headquarter, ITO,
MSO Building, IP Estate,
New Delhi.

2. Dy. Commissioner of Police,
DAP, 2nd Battalion,
Kingsway Camp,
New Police Lines,
Delhi

..... Respondents

(By Advocate: Shri Vijay Pandita)

ORDER

HON. MR. S. R. ADIGE VC(A).

Applicant impugns respondents' letter dated 26.9.98 (Annexure- A) and seeks a direction to respondents to issue him the appointment letter or to set up a medical board for a second opinion/medical exam.

2. Applicant applied for the post of Constable (Ex) in Delhi Police during the recruitment held in 1997. Admittedly he qualified in the physical endurance test and also cleared the written exam. and interview. Respondents themselves state in their reply that applicant was called for medical exam in GTB Hospital, Shahdra, Delhi on 20.3.96, and after examination was declared temporarily unfit due to radial keratotomy and was to be reevaluated after 4 weeks by the Staff Physician.

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Applicant appeared before the Staff Physician on 15.5.98 who after examination referred the case for consultation to the Deptt. of Ophthalmology for reevaluation after radial keratotomy and also referred his case to the Medical Board. On 2.9.98 the Medical Board comprising 3 Ophthalmologists examined applicant and declared him unfit for having undergone "Radial Keratotomy for correction of Myopia". Respondents state that applicant was informed accordingly vide impugned letter dated 26.9.98 with the observation that he could appeal against the aforesaid decision within 30 days, and applicant submitted his appeal on 15.10.98 for constitution of a Medical Board, but after examination respondents rejected the same as they did not find it to be in accordance with Govt. decision No.2(e) below S.R.-2, because according to respondents, applicant was declared unfit not because of inadequate visual acuity but because he had undergone Radial Keratotomy for correction of Myopia.

3. Heard both parties.

4. Merely because applicant underwent Radial Keratotomy for correction of Myopia should not be a ground to reject his candidature, unless respondents are satisfied that despite such correction applicant does not possess the visual acuity prescribed in the rules and instructions, and for that the Radial Keratotomy undergone by applicant for correction of Myopia will render him unfit to discharge his duties as a Constable.

5. In the result this OA succeeds and is allowed

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to the extent that respondents are directed to have a Medical Board of 3 Ophthalmologists constituted at the Rajendra Institute of Ophthalmology, AIIMS, Delhi to examine applicant medically and advise whether despite the Radial Keratotomy for correction of Myopia undergone by applicant, he does or does not possess the visual acuity prescribed under rules and instructions, and whether his visual acuity is such as to render him unfit to discharge his duties as a Constable. These directions should be implemented within 3 months from the date of receipt of a copy of this order. In the event that on the basis of the report of this Medical Board, applicant is declared medically fit to be appointed, he shall be entitled to all consequential benefits flowing therefrom in accordance with rules and instructions and judicial pronouncements. No costs.


(KULDIP SINGH)
MEMBER(J)


(S. R. ADIGE)
VICE CHAIRMAN (A).

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