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Central Administrative Tribunal, Principal Bench

O.A. No. 819 of 1999

New Delhi this the 8th day of October, 1999

Hon'ble Shri Kuldip Singh, Member (J)

1. Smt. Rita Devi  
W/o late Shri Ram Dev Mishra  
R/o Q-4/1, Police Flats, Police Station,  
Model Town - I, Delhi -9.

2. Sh. Vinay Mishra,  
s/o late Shri Ram Dev Mishra  
R/o Q-4/1, Police Flats, Police Station,  
Model Town - I, Delhi -9.

... Applicants

(By Advocate: Shri R. P. Aggarwal)

Versus

1. The Lieutenant Governor through  
The Chief Secretary,  
Govt. of N.C.T. of Delhi  
5, Sham Nath Marg,  
Delhi.

2. The Commissioner of Police,  
Police Headquarters,  
M.S. Building, I.P. Estate,  
New Delhi-2.

..... Respondents

(By Advocate: Anil Singal proxy for Sh. Jog Singh)

O R D E R

By Hon'ble Shri Kuldip Singh

1. In this O.A. applicants have prayed that respondents be directed to get the applicant no. 2 examined by the Medical Board in any Government Hospital other than LNJP.

2. The facts in brief are that applicant no.1 is a widow of a deceased employee of Delhi Police who died in harness, and applicant no. 2 is the son of the deceased employee Shri Ram Dev Mishra. After the death of the father of applicant no.2, applicant no. 1 requested the respondents to give employment to applicant no. 2 on compassionate ground. However, after the

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aforesaid request of the applicant was rejected, applicants filed an OA (74/98) before this Tribunal and this Tribunal vide order dated 17.3.1998 directed the respondents to issue appointment letter in favour of applicant no. 2 subject to completion of all formalities and their OA was disposed of accordingly. The other formalities which were to be completed before joining also had the formality of applicant no. 2 being medically examined and found fit to join as Constable in Delhi Police.

3. The applicant was then examined at Civil Hospital, Rajpur Road but was found unfit. The applicant was informed that since he was medically unfit, he may file an appeal within 30 days so that the Medical Board could be constituted to conduct the medical examination of applicant no. 2.

4. At this stage it would not be out of place to mention that for filing an appeal, the applicant was required to submit medical certificates of two doctors along with a certificate under SR-4 which provides that, if any medical certificate produced by the candidate as a piece of evidence about the possibility of an error of judgement in decision of Medical Board/Civil Surgeon or other medical officer who had examined the candidate at first instance the certificate will not be taken into consideration unless it contains a note by the medical practitioner concerned to the effect that it has given in full knowledge of the fact that the candidate has already been rejected as unfit for service by a Medical Board/Civil Surgeon or other Medical Officer.

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5. It appears that the certificates of two doctors who privately examined the applicant, which were enclosed by the applicant alongwith his appeal, do not contain a note as required under SR-4. However, on the filing of appeal for re-medical exasmination the DCP of 2nd Bn. DAP, Delhi requested the Medical Superintendent, L.N.J.P. Hospital to constitute a Medical Board. But it appears that the fact that doctors concerned whose certificates were enclosed along with the appeal by the applicant had not given a certificate/note as prescribed under SR-4, was detected later on, so the applicant was informed that his request for constitution of Medical Board was thereby rejected. However, in the meantime the candidate had already been examined by the Medical Board which was constituted at L.N.J.P. Hospital and they have also found the applicant as 'unfit' so the representation of the applicant was rejected on that greound.

6. In the present OA the applicants are requesting for constitution of another Medical Board on the ground that applicants have been harassed for compassionate appointment and their representations are being rejected time and again. It was also stated that since the Medical Board had already examined applicant no. 2 then what was the necessity of cancellation of the Medical Board and this has all been done only to manipulate the result given by the Medical Board and it is re-asserted that applicant has no eye problem and he should be got examined by any other Medical Board at any other Government Hospital.

7. I have heard the learned counsel on either side and have perused the material on record.


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8. As already mentioned the applicant had not filed a proper appeal since the medical certificates submitted along with his appeal did not contain a note/certificate as required under SR-4 which fact shows that the applicant has deliberately concealed the fact from the private doctors that he was already declared unfit by the Civil Surgeon of Civil Hospital, Rajpur Raod, Delhi. Hence, his appeal for constitution of a Board for re-medical examination could not have been entertained by Delhi Police and merely the fact that the Medical Board was constituted shows that the officials of Delhi Police over-looked the concealment of facts by the applicant while constituting the same.

9. However, even when the applicant was examined again by the Medical Board at L.N.J.P. Hospital he was not found fit and was informed about the result of the medical board also. The allegations that the result of the re-medical examination by the Medical Board has been manipulated by the Delhi Police, are not supported by any document on record. These are all wild allegations for which there is no evidence on record. Moreover, there is no document to show that the result of the Board has been manipulated by the Delhi Police and why the police officials should be so interested to manipulate the result.

10. In view of the above, we find no merit in this O.A. and the same is accordingly dismissed. No costs.

  
(KULDIP SINGH)  
MEMBER(J)