

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 1800/1998

New Delhi this the 18th day of August, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri S.A.T. Rizvi, Member (A)

Sh. Brijesh Yadav,
S/O Shri Bhoop Singh
R/O 7772, Kachha Pukka
Shastri Nagar, Delhi-7

.. Applicant

(None for the applicant)

Versus

1. Commissioner of Police,
MSO Building, ITO, New Delhi.
2. Deputy Commissioner of Police,
IV Bn. DAP, Delhi.
3. Union of India
through Ministry of Home Affairs,
Govt. of India, New Delhi.

.. Respondents

(By Advocate Ms. Neelam Singh)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (A))

The applicant is aggrieved by the order passed by the respondents dated 11.2.1998 (Annexure A).

2. None has appeared for the applicant even on the second call. We note that none had appeared for the applicant on the last date of hearing also i.e. 10.8.2000. In the circumstances, we have perused the pleadings and heard Ms. Neelam Singh, learned counsel for the respondents.

3. The brief relevant facts of the case are that the applicant was called for interview for the post of Constable (Bandman) through Employment Exchange on 15.4.1997 in which he had appeared. The respondents have stated that he was provisionally selected for the post of Constable (Bandman)

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subject to the medical fitness for police service in accordance with the Rules (Pages 27-28 of the paper book) in which the physical standard prescribed includes fitness of the candidates being free from glasses (both eyes) and free from colour blindness. It has also been stated that no relaxation is permissible.

4. The applicant has taken a ground that the respondents have not exercised their power fairly and judiciously. He has also claimed that there has been discrimination against him. He has stated that his request for medical re-examination before some independent authority was not properly decided by the respondents and moreover, he has contended that colour blindness will not affect his duties to be performed by him ^{as a} ~~as a~~ Bandman in Delhi Police. He has, therefore, prayed that the impugned order dated 11.2.1998 passed by the respondents may be quashed and set aside and a direction may be given to the respondents to appoint him as Constable (Bandman) from the date of his selection with all consequential benefits.

5. From the documents on record, it is noticed that as per the request made by the applicant, the respondents had issued letter dated 11.9.1997 to the Chairman, Medical Board, Lok Nayak Jai Prakash Narain Hospital (LNJPNH) and the applicant was directed to report to that authority for the second medical opinion. In the circumstances of the case, the contention of the applicant that the respondents have acted in an arbitrary manner ^{in not giving B/} ~~to~~ send him before an independent authority for medical re-examination cannot be accepted as the same has been done in accordance with the

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Rules by a duly constituted Medical Board of LNJPNH, New

Delhi. It is also seen that he had submitted an appeal to the Chairman, Medical Board, LNJPNH regarding second medical opinion. Based on the opinion of the Medical Board of LNJPNH given by them, the respondents have cancelled the candidature of the applicant to the post of Constable (Bandman) in Delhi Police.

6. In view of the above facts and circumstances of the case, as the applicant did not qualify the physical standard prescribed under the Rules by the Delhi Police for appointment to the post of Constable (Bandman), as he was found medically unfit on account of colour blindness, we are unable to allow this application. The applicant has not challenged the validity of the Rules and therefore, the action of the respondents is neither arbitrary nor illegal justifying any interference in the matter. Accordingly O.A. is dismissed.

7. However, before we part with this case, we would like to focus attention once again on the plea taken by the applicant that colour blindness should not be a factor to determine his eligibility for appointment as Constable (Bandman). We are not aware of the nature of duties and responsibilities to be shouldered by Bandmen in Delhi Police as they move up ~~the~~ ¹² the ladder and therefore, cannot be in a position to express a considered view in this regard.

However, we conclusively feel that this is a matter for the

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Delhi Police to look at and they may re-examine the issue of colour blindness so as to see if such a requirement stipulated in the rules must necessarily be continued in future. In this context, we may mention in passing that we are aware of some renowned Musicians etc. who have been blind persons and among the poets of this class was one John Milton who is reputed to have observed that they also serve who only stand and wait.

No order as to costs.

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(S.A.T. Rizvi)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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