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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

O.A.No.1288/95

New Delhi the 13th day of October, 1999.

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI S.P. BISWAS, MEMBER(A)

Arun Kumar Verma,
S/o Shri Ram Nath Verma,
R/o Quarter No. Fl/1,
Police Station,
Defence Colony,
New Delhi-49.

..Applicant

(By Advocate Shri G.D.Gupta)

vs.

1. Staff Selection Commission through
its Chairman,
Government of India,
Ministry of Personnel, Public
Grievances and Pensions,
Department of Personnel & Training,
Block No.12,
Kendriya Karyalaya Parishad,
Lodi Road,
New Delhi-3.

..Respondent

(By Advcoate Shri V.S.R.Krishna)

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

This application is directed against the order dated 14th Junly 1995 (Annexure A1) of the respondent by which the applicant's candidature for Sub Inspector in Delhi Police and CPO Examination, 1995 was cancelled for the alleged reason that the applicant had not pasted the photograph on the application form in violation of Commission's instructions in that regard. The allegations in the application can be briefly stated as follows:

2. Pursuant to a notification published by the Staff Selection Commission in the Employment News dated 5-11 March, 1994 (Annexure A2) the applicant applied for selection and appointment for the post of Slub Inspector in Delhi Police and CPO. The applicant

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received the admission certificate with Roll No. and the schedule of examination. The applicant appeared in the written test on 3rd July 1994. The applicant received another call letter for appearing in the written test for Paper III Language test to be held on 25th September 1994. The applicant appeared in the said test also. The result of the test was published and the applicant's name figured in the list of successful candidates (Annexure A5). He was called to appear for the physical endurance test/vision test for the post of Sub Inspector of Police vide letter of the respondent dated 13th June, 1995 (Annexure A6). When the applicant appeared for the interview on 14th July 1995 the applicant was told that the OBC certificate produced by him was not proper as it was not signed by the competent authority and was advised him to appear with a proper OBC certificate for interview on 15th July 1995. However on the same day the applicant was served with the impugned order cancelling his candidature for the alleged reason that he had not pasted the photograph on the application form in violation of the instructions contained in the notification of the Staff Selection Commission. The applicant has alleged that the applicant had in fact pasted his photograph in the application form, that he had seen that the application form submitted by the applicant was torn, that the photograph would have been misplaced in the office of the respondent and that for that reason the candidature of the applicant could be validly cancelled. It is with the above averments that the applicant has sought in this application to have the impugned order dated 14th July, 1995 (Annexure A1) set aside declaring that the action of the respondents in cancelling the candidature of the applicant, was illegal and arbitrary and a direction to respondent to call the applicant for interview

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and proceed in the matter as if his application form was in order.

2. The applicant had prayed for an interim order directing the respondent to conduct an interview of the applicant for the post of Sub Inspector in Delhi Police as the applicant had already passed the physical endurance tests and it was because of the cancellation of the applicant's candidature by the respondent that he could not attend the interview which was held on 19.7.95 as also directing the respondent to allow the applicant to attend the interview for the post of Sub Inspector in Central Police Organisation(CPO) which was to be held on 25th July,1995.

3. When the application came up for hearing on admission on 21.7.95 the Tribunal issued an interim order directing the respondent to allow the applicant to appear in the interview that was fixed to take place on 24th July 1995. :

4. The respondent in the reply statement seeks to justify the impugned order on the ground that it was only because of the failure to affix his photograph in the application form that the applicant's candidature was cancelled as per rules and that the applicant was called for the written test and physical endurance test as the omission to affix the photograph had inadvertently escaped the notice of the respondent's officials. The allegations made in the application are denied by the respondent. The respondent further contends that though the respondent had sent a letter to the applicant to be present for the physical endurance test/vision test on 24.7.95 at Chawla camp, B.S.F., New Delhi for selection to the post of CPO in obedience to the interim orders of the Tribunal issued on 21.7.95, the applicant did not appear and that therefore the applicant having abandoned the relief, the application is liable to be dismissed.

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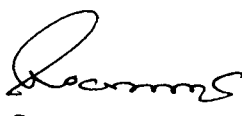
5. The applicant has filed a rejoinder in which he has inter alia stated that he could not be present at Chawla camp, B.S.F, New Delhi for PET/vision tests on 24.7.95 as on that day he was suffering from dysentery and that he had on 27th July 1995 sent a letter intimating his inability to be present on account of his illness. The applicant has also produced (Annexure P1) medical certificate issued by Dr.Vijay Aggarwal stating that the applicant was advised rest from 21.7.95 to 27.7.95 as he was suffering from collitis with dysentery.


6. Having given the facts and circumstances emerging from the pleadings and materials placed on record and the submissions made by the learned counsel on either side our anxious consideration, we are of the considered view that the applicant is not entitled to any relief in this application. The fact whether the applicant had affixed his photograph on the application form as contended by him or the application was defective is a disputed question of fact. As the applicant had been called for the written test and physical endurance test it would appear that the case of the applicant that he had affixed his photograph in the application form is more probable, as otherwise his application would have been rejected and no call letter for written test or PET would have been sent to him normally. The respondent however contends that the admission card and call letter were issued to the applicant as the defect in the application form was initially not discovered due to inadvertance. Whatever be the case, by an order of this Tribunal dated 21.7.95 the respondent was directed to allow the applicant to appear at the PET and vision tests for selection to the post of CPO. The applicant failed to make use of this opportunity. The case of the applicant that he could not appear for the PET/vision tests on 24.7.95 as he was laid up with dysentery on that day attempted to be

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established by production of Annexure P1 certificate, does not appear to be very convincing. If as a matter of fact, the applicant was down with dysentery from 21.7.95 as seen recorded in Annexure P1 certificate the applicant as a person of ordinary prudence would have sent an application to the competent authority along with the medical certificate well before 24.7.95 seeking a postponement of the PET/vision tests. The failure on the part of the applicant to do that disentitle the applicant for any relief. Learned counsel of the applicant argued that even if the applicant on account of his failure to appear for the PET/vision tests for selection to CPO on 24.7.95 has forfeited his claim for that as the applicant was prevented from appearing from the interview for the post of Sub Inspector in Delhi Police which was held on 19.7.95 by the impugned order the applicant is entitled to a direction to the respondent to call him for a test for selection to the post of SI, Delhi Police. We are not persuaded to agree to this argument of the learned counsel. If the applicant was aggrieved by Annexure A1 as he had known that he would not be permitted to take the interview on 19.7.95 he should have immediately filed the application well before 19.7.95 and sought an interim order to permit the applicant also to participate in that interview. That having been not done and the interview, selection and appointment having been made, we are of the considered view that the applicant cannot seek any relief regarding that.

7. In the result in the light of what is stated above, the application is dismissed, leaving the parties to bear their own costs.


S.P. BISWAS
MEMBER(A)


A.V. HARIDASAN
VICE CHAIRMAN