

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...
OA.No.706 of 1997

New Delhi, this 2nd day of December, 1997.

HON'BLE MR K. MUTHUKUMAR, MEMBER(A)
HON'BLE DR A. VEDAVALLI, MEMBER(J)

Khamman Singh
S/o Shri Govind Ram
Village-Sameri, P.O. Chhatta
Dist. Mathura (U.P.) ... Applicant

By Advocate: Shri D. N. Sharma

versus

1. The Union of India, through
The Secretary to the
Government of India,
Ministry of Defence,
South Block,
New Delhi.
2. The Director General of
Medical Services,
Army Medical Corps,
Sena Bhawan, D.H.Q. P.O.
New Delhi.
3. The Commandant,
Military Hospital
Mathura (U.P.) ... Respondents

By Advocate: Shri Harbir Singh, proxy
counsel for Mrs P. K. Gupta

O R D E R (ORAL)

Mr K. Muthukumar, M(A)

Heard the learned counsel for the applicant at the admission stage after the completion of the pleadings. As the issue involved is relatively a short one, we proceed to dispose of this matter finally.

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For the post of Messenger (Civilian) the applicant was interviewed and was selected and thereafter he was required to undergo a medical examination which was held on 6.11.96. He was declared medically unfit due to 'Splenomegaly'. The applicant submits that he had not been informed about the result of the medical examination. However, the respondents submit that he was duly informed about the result of the medical examination on the same date by the Medical Officer in-charge. Thereafter the applicant obtained a second medical opinion from the Chief Medical Superintendent, District Mathura on 4.12.96 who declared him fit for the service. Before obtaining this certificate, he had sent representation to the respondents and followed it by a legal notice. The respondents turned down his request by their letter dated 27.11.96 and he was informed that he was not found fit on medical examination and was, therefore, held to be unfit for the appointment. He was advised to contact the Army Headquarters in the event of any doubt or objection. Thereafter the applicant had made a detailed representation dated 10.2.97 to the Assistant Director of Medical Services, Army Medical Corps Headquarters U.P. Area, Bareilly. As there was no response to his representation, this OA had been filed praying that he might be considered for appointment in the event of his being found medically fit on the basis of a medical certificate of physical fitness by a Specialist in any Army Hospital at Delhi or Lucknow.

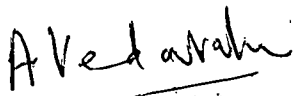
In the reply, the respondents have only raised a doubt on the medical certificate given by the Chief Medical Superintendent, District Hospital, Mathura and have submitted that the certificate seems to be signed by another officer as it is shown as 'for' Chief Medical Superintendent and not personally by the Chief Medical Superintendent.

The applicant contends that under the rules, it is open to the government to allow re-examination by another Civil Surgeon or a Specialist or by a medical board as may be considered necessary to rule out any possibility of an error of judgment. This has not been specifically denied by the respondents in their reply.

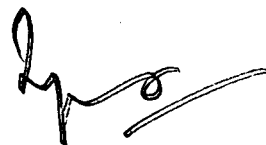
In the light of the above, we consider it appropriate to dispose of this OA finally with the following directions:

The respondents are directed to consider the representation of the applicant dated 10.2.97 (Annexure A-4) on merits and if the applicant is eligible for second medical examination, he may be directed to appear in the second medical examination either by a Civil Surgeon or any other Specialist, as per rules and communicate the result of such medical examination or, otherwise dispose of the said representation within a period of three months from the date of the receipt of a copy of this order.

The OA is disposed of as above. No order as to costs.



(Dr A. Vedavalli)
Member(J)



(K. Muthukumar)
Member(A)