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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. 262 A of 1994.

New Delhi, this the 7th day of October, 1994.

Hon'ble Mr Justice S.K.Dhaon, Vice Chairman.
Hon'ble Mr B.N.Dhoundiyal, Member(A)

Shri Anant Swarup Son of Shri Vinod Swarup,
Resident of 11, Amar Nath Jha Marg,
George Town, Allahabad. Applicant.
(through Praveen Swarup, Advocate).

vs.

1. Union of India, through the Secretary,
Ministry of Personnel,
Public Grievances and Pensions,
Department of Personnel and Training,
North Block, New Delhi.
2. Union Public Service Commission,
through the Chairman,
Shahjahan Road, New Delhi.

... Respondents.
(Through Shri N.S.Mehta, Sr. Standing counsel).

ORDER

(delivered by Hon'ble Mr B.N.Dhoundiyal, Member(A))

The applicant is aggrieved that even though he was placed in order of merit at Serial No.174 and candidates upto Sr.No.179 were allotted to the I.P.S. He has been denied such appointment on the ground that his height and chest were not upto the standard. He prays for a direction to the respondents to appoint him to the I.P.S. Service Group 'A' in the Regular Batch of 1993 and also for a declaration that regulation fixing 165 Cms. as minimum height for IPS Group A is unconstitutional.

2. The applicant appeared in 1991 examination and was allotted to the Indian Railway Personnel Service.

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He was, however, given permission to appear in the 1992 examination where he was placed at Sr. No. 174 in the merit list. He was asked to join training at the National Police Academy, Hyderabad for the Foundation Course from 20th September, 1993. However, at the end of the Foundation Course, he received a letter informing him that his height was less than the minimum prescribed for getting the IPS which was 165 Cms and his chest girth was also substandard. He preferred an appeal, the result of which was never intimated to him. The applicant claims that when he appeared in the Civil Services Examination, 1991 his height was found short only by 1 c.m. and his chest girth was found to be all right. He challenges the regulation prescribing the height as 165 cms. on the ground that it is arbitrary, unreasonable and has no rationale with the object to be achieved, that is, the discharge of duty as an IPS Officer. Referring to the lower height standard fixed for Gorkhas and other specified communities and women he contends that when ST, Gorkhas, Assamese, Kumayonis and women with less height than 165 cm can discharge their duties efficiently and without any hindrance, there is no justification for fixing a minimum height of 165 cm for other citizens of India. He has also contended that under Regulation 2(a) (non-technical) it is left to the discretion of the Medical Board to decide about age limit, height and chest girth of the candidates, however, under regulation 2(b) (Technical) the discretion of the Board which is an expert body ^{is curtailed by} in respect of some services and substituting the same by administrative decision is arbitrary. The minimum height of 165 cm is borrowed from the Rules of I.P. Services existing prior to

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independence.

3. A counter-affidavit had been filed by the respondents on 11.04.1994 and since certain information relating to the height standards prescribed for the State Police Service and the Defence Service had not been mentioned therein and ^{on} the directions of this Tribunal, they filed additional affidavits on 13.07.1994 and 5.08.1994. A reply to the Supplementary Affidavit filed by the applicant was also filed on 16-09-1994. The main averments in the counter affidavits are these. The eligibility conditions for appearing at the examination, allocation of successful candidates to different services are covered in the examination rules, notified by the respondents, according to which a candidate must be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties on his appointment. The allocation of the candidates included in the merit list to different services is made according to the rank of the candidates in the merit list and the preference for services exercised by them subject to physical fitness for appointment. The services have been classified as Technical and non-technical. The I.P.S. and other Central Police Services, Indian Railway Traffic Service and Group 'A' posts in the Railway Protection Force are treated as Technical. The medical standards for various Central Civil Services are determined by the Ministry of Health after taking into consideration the job requirements. The physical standards required for each service are given in the regulation relating to the physical examination of the candidates in the Civil Services Examination Rules. Rule 2 of the Regulation

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relating to the physical examination provides that the Government of India reserve to themselves absolute discretion to reject or accept any candidate after considering the report of the Medical Board.

The requirement of minimum height of 165 cms. for Police Services is constant atleast since 1947 according to the records available. This was fixed in consultation with the Ministry of Health and other experts in the field. The minimum height standards are 165 Cms, in the State Police Services Maharashtra, Andhra Pradesh, Rajasthan, Delhi & Andaman & Nicobar Police Services and 167 Cms. for State Police Services, Kerala.

For the Combined Defence Service Examination, the minimum height is 157.5 cms, for the Army 157 for Navy and 162.5 Cms. for Air Force. The applicant was initially examined at Ram Manohar Lohia Hospital on 30.4.1993. He was declared unfit on account of substandard height and chest measurement. He filed an appeal and was given another opportunity to get himself examined at the appellate medical Board which was constituted at Safdarjung Hospital. The Appellate Medical Board examined him on 17.06.1993 and again declared him unfit for technical services on the i.e., same grounds sub-standard height and chest measurements.

4. We have gone through the records of the case and heard the counsel for the parties. The learned counsel for the applicant, while re-iterating the aforementioned contentions, contained in the O.A., also stated that the applicant was fit in the earlier examination of 1991 and subsequent examination stated variations in the measurement of height and chest. There is considerable substance in the argument of the learned counsel for the respondents that what is relevant is his height and chest at the time of medical examination carried out in 1992 and that

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the physical condition of a candidate is liable to improve or deteriorate with the efflux of time. At the time of medical examination and re-examination the height and chest measurements of the applicant were not within the prescribed standards as borne out by the Medical Report. It is true that I.P.S. (Appointment by Competitive Examination) Regulations, 1955 do not provide any limit of height or chest etc. However, Rule 7 of the I.P.S. (Recruitment) Rules, 1954 provides that the examination shall be conducted by the Commission in accordance with such regulations as the Central Government may, from time to time, make in consultation with the Commission and the State Governments. The Civil Services Examination Rules which contain the provision regarding regulations physical examination were framed in accordance with the above said rule. Regulation 12 of the I.P.S. (Appointment by Competitive Examination) Regulations, 1955 stipulates that not only the candidates should be good mental or bodily health but also should be free from any mental or physical defects which are likely to interfere in discharging the duties of the service. The respondents have taken the advice of the Health Ministry and other experts while fixing the standards. These standards have prevailed for a long time and were very well known to the applicant, being part of the notified rules for the examination. The respondents were within their rights to prescribe lower height standards for certain categories of posts.

5. We do not find that this is a fit case where the Tribunal should interfere and accordingly this O.A. is dismissed. No costs.

B.N. Dholiyal
(B.N. Dholiyal)
Member (A)

^{Say}
(S.K. Dhaon)
Vice Chairman.