

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH



O.A. No. 30/1994

New Delhi, dated the 8th December, 1994

CORAM

Hon'ble Shri N.V. Krishnan, Vice Chairman(A)

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

Shri Raj Pal
s/o Shri. Feru Singh
r/o Village-Garhi, Noabad,
Distt. Muzaffer Nagar(U.P.)

... Applicant

(By Advocate Shri Shankar Raju)

V/s

1. Union of India service to be effected on Home Secretary, Ministry of Home, New Delhi-1
2. Commissioner of Police, Delhi Police Headquarters, Delhi
3. Deputy Commissioner of Police, III Bn. DAP, Delhi.

... Respondents

(By Advocate Shri O.N. Trisal)

ORDER (ORAL)

[Hon'ble Shri N.V. Krishnan, Vice Chairman (A)]

The applicant was selected for the post of Constable in the Delhi Police as is evident from the Ann.D. letter dated 28.9.1992 addressed to him by the respondent No. III (Deputy Commissioner of Police, III Bn, DAP, New Delhi). However, by the impugned order Ann.A.

dated 16-4-1993, the applicant was informed that his candidature for the post of constable in Delhi Police was cancelled. His appeal and representation did not have any effect. Hence he is before us with the prayer to quash the impugned order and to direct the respondents to allow him to join his duties in pursuance of Ann.D. letter with all consequential benefits.

2. In their reply, the respondents have stated that the applicant filed his application on 27.6.91 for the post of constable under category of S.T. candidates. He was, therefore, allotted roll No.50081 from the series 50001 to 51000 earmarked for Sch.tribes candidates. In physical fitness, his height found to be 169.8 CMs against 170 CMs. However, as there is a relaxation in the favour of S.T. candidates upto 5CMs, he was considered eligible for selection. It was later on discovered that the caste certificate produced by him relates to the backward class given by Tehsildar, Budhana, Distt. Muzaffar Nagar(UP). Respondents, therefore, found that the applicant got selected by resort to deceitful means. Hence his candidature was cancelled.

3. On our direction, the learned counsel for the

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respondents has produced the original application of the applicant which was filled by him for this post. We wanted to know whether he had claimed anywhere that he was a S.T. candidate. The question at serial No.3(4) is the applicant belonged to Sch.Caste/Sch. Tribe and if he belonged to one of them, proof thereof should be filed. The applicant mentioned against this col. " Hindu Nai(i.e. Hindu barbar). A certificate of Tehsildar Budhana, Distt. Muzaffar Nagar(UP) was produced that he was a Hindu belonging to a backward class. There is no other specific mention in this application where the applicant has claimed that he belonged to a Sch.Tribe.

4. It is the respondents who have affixed on this application a stamp that he is a Sch.Tribe and allotted him the appropriate number to STs.

5. In the circumstances, we are of the view that the applicant has not adopted any deceitful means to claim selection in so far as the question of his caste is concerned. That is the ground on which the applicants selection has been cancelled. In the circumstances that order would have ^{to} been quashed.

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6. The only question left is whether the applicant is still eligible to be considered on the basis of the height of 169.8CMS then recorded. The applicant has produced a number of medical certificates, with the rejoinder to show that his height is 171 CMS. One certificate is from the Medical Officer, Delhi Admn. Health Centre, Raghubarpura, Delhi-31.

7. It is our recollection that in the matter of height, if any adverse finding is given to candidate, at the Physical fitness test, he has^a right to file an appeal to the competent authority. In the present case, on the wrong assumption that he belonged to a Sch. Tribe, a relaxation is stated to have been given, which is not his due.

8. Therefore, it would only be appropriate if the applicant is given an opportunity to file such an appeal. His selection as constable would ultimately abide by the outcome of that appeal.

9. We, therefore, dispose of this O.A. by quashing the impugned order Ann.A. dated 16.4.1993. The second respondent is directed to treat this OA as an appeal against the finding that the applicants height was only 169.8 CMS as stated in the para 'Brief facts'

in reply to para 4 of the OA and dispose it off within one month from the date of receipt of this order, in accordance with law. The question of the applicants selection would abide by the order of the second respondent in this regard. Needless to say, if aggrieved, it is open to the applicant to seek such remedy, as may be advised.

Lakshmi Swaminathan

(Lakshmi Swaminathan)

Member (J)

N.V. Krishnan

(N.V. Krishnan)

Vice Chairman (A)