

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No. 1582/94

Date of decision 5.11.1996

Hon'ble Smt. Lakshmi Swaminathan, Member (J)  
Hon'ble Shri K. Muthukumar, Member (A)

Shri Harpal Singh  
S/o Shri Chet Ram  
R/O A-39, Vivek Vihar, Shahadara,  
Delhi-95

... Applicant

(By Advocate Shri L.C. Goyal with  
Ms. Sunita Bemezai )

Vs.

Development Commissioner,  
Delhi and another

... Respondents

(By Advocate Sh. Amresh Mathur through  
proxy counsel Shri S.K. Gupta)

O R D E R (ORAL)

1 Hon'ble Smt. Lakshmi Swaminathan, Member (J) 7

This O.A. has been filed by the applicant being aggrieved by the order issued by the respondents dated 18.7.91 by which his services were terminated. (Ans. A). The Tribunal by order dated 18.8.94 had dismissed the application on the ground of limitation. On appeal filed by the applicant in the Supreme Court (Civil Appeal No. 9739/96), the Supreme Court by order dated 23.8.96 remitted the case ~~back~~ to the Tribunal, to restore the OA 1582/94 on file and dispose of the same on merits as expeditiously as practicable preferably within a period of four months from the communication of the order dated 23.8.96.

2. In accordance with the above directions of the Supreme Court, we have heard the learned counsel for both the parties and perused the records.

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3. In the impugned order dated 18.7.91 issued by the respondents terminating the services of the applicant, it has ~~also~~ been mentioned therein that in case the applicant intends to represent against the medical report of the Staff Surgeon who had declared him medically unfit regarding his vision part, he may do so within a period of 30 days for re-examination by the Medical Board. It has also been mentioned that he may get himself medically examined by atleast two Medical Officers possessing MBBS qualification and produce their report of not suffering from the disease as contended by the Staff Surgeon. The main contention of Shri L.C.Goyal, learned counsel for the applicant is that on 2.8.91, the applicant had produced two medical certificates from two Doctors who had certified that the applicant has been physically examined and found fit for the post of Mazdoor. They have also stated that his eye sight appears to be within normal working limits. Learned counsel, therefore, submits that since he has submitted two medical certificates from the MBBS Doctors declaring him fit to hold the post of Mazdoor, he should be reinstated in service with back wages. He relies on the judgment of this Tribunal in OAs 2594/91 and OA 2597/91 decided on 4.3.1992.

4. Shri S.K.Gupta, learned proxy counsel for the respondents, on the other hand submitted that the applicant never applied for re-examination by the Medical Board in his representation dated 2.8.91. Therefore, the applicant was not duly examined by the Medical Board and the Staff Surgeon had already declared him unfit for the post of Mazdoor.

5. We have carefully considered the submissions made by the learned counsel and the records.

6. We note from the Medical certificates given by the

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applicant, both dated 31.7.91 that they are exactly the same, declaring the applicant fit to hold the post of Mazdoor. In the Impugned letter dated 18.7.91 it is specifically mentioned that Staff Surgeon/Medical Supdt.(Civil Hospital) had declared him medically unfit as he was reported to be suffering from Vision 6/60, 6/60 with and without glasses. The applicant has failed to show whether this information regarding his medical unfitness/<sup>had</sup> been placed before the two doctors. Apart from this, we find that these two doctors do not appear to be Ophthalmologists and they have also not indicated the actual vision power of the applicant. We also note from the application dated 2.8.91, which was read out by the learned proxy counsel for the respondents, /from their file that the applicant himself had not represented that he is willing to be re-examined by the Medical Board. In the circumstances of the case, we find that the medical certificates enclosed by the applicant are not in proper form, and they cannot, therefore, be accepted.

7. In view of the above facts and circumstances of the case, we dispose of this O.A. with the following directions:-

The applicant may make a representation to the respondents, if he so wishes, that he may be re-examined by the Medical Board in furtherance to the order dated 18.7.91 within a period of two weeks on the basis of the medical certificates given earlier on 31.7.91. On receipt of such a representation, the respondents shall take further action to have the applicant referred to the Medical Board to be constituted in accordance with the relevant rules/instructions within a period of one month. Thereafter the respondents ~~may 18~~ take appropriate action in the matter regarding appointment of the applicant in accordance with the rules.

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(2)

We also make it clear that in the facts and circumstances of the case, the prayer for back wages is rejected.

8. O.A. is disposed of as above. No order as to costs.

*tyo*  
(K.Muthukumar)

Member (A)

*Lakshmi*  
(Smt. Lekshmi Suaminathan)

Member (J)

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