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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

C.P. No. 26 of 1995
in
O.A. No. 1989 of 1993
New Delhi, dated this the 30th January, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Avinish Kumar,
S/o Shri Budh Singh,
R/o Vill. & P.O. Mandom,
Dist. Bulandshahr,
U.P. APPLICANT

By Advocate: Shri M.P. Raju

VERSUS

1. Shri Nikhil Kumar,
Commissioner of Police,
Police Hqrs.,
I.P. Estate,
New Delhi.
2. Dr. R.S. Yadav,
Head of the Dept.
Orthopaedics,
LNJP Hospital,
New Delhi. RESPONDENTS

By Advocate: Shri Girish Kathpalia

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Applicants allege contumacious non-compliance of Tribunal's judgment dated 16.11.94 in O.A. No. 1989/93 Shri Avinish Kumar Vs. Commissioner of Police & Ors.

2. In the O.A. applicant who suffered from a loss of terminal phalaux of right finger had impugned his rejection for appointment as Constable in Delhi police on the grounds of being medically unfit. The Tribunal heard both parties and noticed the report of the Medical Officer as well as the Medical Board declaring the applicant unfit; as well as the report of Dr. S.S. Yadav, Head, Orthopaedics Dept., LNJP Hospital that

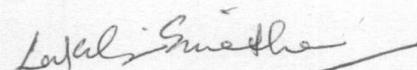
despite this loss the applicant's functional capacity was normal, and there was no disability, and if this was acceptable the applicant was fit and not otherwise. In its judgment dated 16.11.94 it directed the Commissioner of Police to consider the communication of the Chairman of the Medical Board as well as Dr. Yadav's opinion and pass a reasoned order within one month and communicate the same to the applicant within 10 days thereafter.

3. Respondents have filed letter dated 31.1.95 addressed the applicant rejecting the applicant's candidature as constable owing to the medical defect, and contend that no contempt has been committed as the direction have been fully complied with.

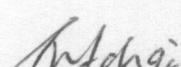
4. Shri Raju has contended that applicant never received letter dated 31.1.95 and he came to know of its contents only when respondents filed their reply dated 18.11.96 annexing its copy. Secondly he has urged that the letter is dated 31.1.95 and thus there has been delay as the time permissible was one month 10 days from 16.11.94. Thirdly it has been contended that the letter dated 31.1.95 does not show whether there has been any consideration of Dr. yadav's opinion.

5. None of these grounds are sufficient in our opinion to initiate contempt action against the respondents. The letter dated 31.1.95 is clearly addressed to the applicant and we have no reason to doubt that it was despatched to him. The letter itself states that the matter has been considered by the Commissioner of Police as per the directions contained in the Tribunal's judgment which makes it clear that the Commissioner of Police had passed his reasoned order rejecting the applicant's candidature as a constable on account of the physical defect after taking into view Dr. Yadav's opinion. It is true that the order which should have been passed by 27.12.94 was actually passed on 31.1.95, that is a little beyond a month of the due date, but we are unable to detect any deliberate or wilful attempt of the respondents not to comply with the Tribunal's direction on this account.

6. The C.P. is therefore dismissed and notices to alleged contemnors are discharged.



(Mrs. LAKSHMI SWAMINATHAN)
Member (J)



(S.R. ADIGE)
Member (A)

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