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Central Administrative Tribunal, Principal Bench

Review Application No.171 of 2000  
(in O.A.No.381 of 2000)

New Delhi, this the 22nd day of September, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman  
Hon'ble Mr. V.K. Majotra, Member (Admnv)

Constable Mahee Lal Meena No.1862/NW,  
S/o Shri Mange Lal, aged 38 years, R/o  
432, Police Colony, Ashok Vihar, Delhi. - Applicant  
(By Advocate Shri Shanker Raju)

Versus

Addl. Commissioner of Police Establishment,  
Police Head Quarters, I.P. Estate, M.S.O.  
Building, New Delhi. - Respondent  
(By Advocate Ms. Jasmine Ahmed)

O R D E R (Oral)

By V.K. Majotra, Member (Admnv)-

OA 381/2000 had been made by the applicant on the ground that he had not been accorded exemption from physical test held for promotion to the post of Head Constable in 'A' list, although he had suffered injuries disabling him while performing his official duties.

2. Vide order dated 3rd April, 2000 afore-stated OA was dismissed on the ground that S.O. No.91/1989 under which the applicant had claimed relaxation in respect of physical test on grounds of medical disability did not contain any provision for such relaxation. The present review is based on an addendum dated 5.5.1992 issued to aforesaid Standing Order No.91/89, a copy whereof is annexed as Annexure-RA-II. It is stated that the said addendum was not available with the applicant, who had appeared in person, at the time of the consideration of the O.A. All that was available with the applicant was S.O.No.91/89. The addendum now relied upon came to the notice of the applicant when a relief similar to the one claimed by the applicant was granted to another Constable Shri Abhay Singh. The said addendum did not form a part of

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aforesaid Standing Order which had been produced by the applicant at the time of hearing of aforesaid OA. The applicant has submitted that despite due diligence the said addendum was not available to him. The addendum in question provides as follows:

"In para-6 under head "EVALUATION SYSTEM" below sub-para (e), under head "OUT-DOOR TESTS FOR MALE & FEMALE CONSTABLES" in Standing Order No. 91/89, issued vide this Hdqrs. No. 38633-701/ SIP (PHQ) dated 7.12.89, the following may be added :-

(f) "The Constables (Male & Female) who have suffered injuries while performing official duty and become disabled to appear in out-door tests of Promotion list 'A' are exempted from both P.T. and Parade tests as the case may be. Their placement in merit list would be guided by the percentage of marks obtained by them in the tests they appeared i.e. written test, service record and part of physical test if at all attended by the candidate."

3. The applicant based on the aforesaid addendum claims that he is entitled to grant of promotion based on the relaxed standard.

4. The learned counsel of the respondents has contended that the Constables who suffer injuries while performing official duties and become disable have to produce their disability<sup>h</sup> certificates issued by the competent Medical Board of a Government hospital on the prescribed format in support of their unfitness. She states that the applicant had not produced any such certificate and thus was not accorded relaxation as per S.O.91/89 read with aforesaid addendum. She further stated that in order to avail of this concession, the disabled person has to attend the physical test.

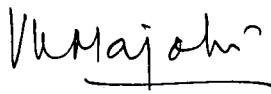
5. We find that in the impugned order the claim of the applicant among others had been rejected stating that his case does not come under the ambit of rules/ instructions contained in SO 91/89 on the subject. This is a sketchy order which does not give any detail

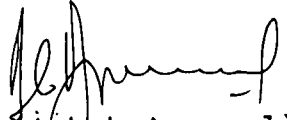
whether the applicant's claim for seeking relaxation under the disabled category has been considered. It is also clear from our order dated 3rd April, 2000 in OA 381/2000 that the OA had been disposed of without taking into consideration the afore-stated addendum, as SO 91/89 did not contain any provision regarding relaxation in respect of physical test on grounds of medical disability. If aforesaid addendum had been placed before us, the result in the OA would certainly have been different as the addendum provides for relaxation claimed by the applicant in the OA.

6. In view of the fact that the addendum to SO 91/89 was not before us at the time of consideration of the OA and similarly situated Police Constables have been given benefit and sent to training on relaxation from physical test; we allow the RA and recall our order dated 3.4.2000 in OA 381/2000.

7. We find that there is merit in the claim made by the applicant in the OA and in order to meet the ends of justice we set aside the impugned order dated 31.1.2000 (Annexure-A-2 to the OA) and direct the respondents to consider the applicant's case under SO 91/89 read with addendum dated 5.5.1992 giving him an opportunity to produce the requisite medical certificate from the competent medical authorities.

8. In the result, the RA is allowed and OA is also disposed of in the above terms. No costs.

  
(V.K. Majotra)  
Member (Admnv)

  
(Ashok Agarwal)  
Chairman