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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 127/2000

New Delhi this the 3rd day of February, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

Mool Chand Sharma S/O Mahesh Chand Sharma,
R/O H.No.111, Block-A,
Prakash Vihar, Karawal Nagar,
Delhi-110094.

... Applicant

(By Shri M. P. Sinha, Advocate)

-Versus-

1. Commissioner of Police,
Police Headquarters,
I.P.Estate, New Delhi.
2. Dy. Commissioner of Police (HQ),
Police Headquarters,
I.P.Estate,
New Delhi.


... Respondents

(By Shri Ajesh Luthra, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

The short grievance raised by the applicant in the present O.A. is that he is not being called for the written examination scheduled to be held on 6.2.2000 on the ground that he has been declared physically unfit as having been found below the prescribed height of 170 cms. which is the requisite height for appointment as a Constable. It has, inter alia, been averred by the applicant that he had earlier applied for the very same post of a Constable pursuant to an advertisement issued on 25.5.1998. At that time, he was found physically fit and was permitted to appear for the written examination.



Since he had failed in the written examination, he was not selected to the post of Constable. He has now once again applied for the very same post in pursuance of an advertisement issued in September, 1998 and this time, he has been found physically unfit as he has been found to be 169 cms. in height. It is contended by Shri Sinha, the learned counsel appearing in support of the O.A. that it is inconceivable that the applicant has now been found below the prescribed height whereas earlier he was found to be satisfying the requisite height qualification. In our view, having regard to the attendant facts and circumstances of the case, it would be just and proper that the appellate board re-examines the applicant for arriving at the correct height of the applicant.

2. Shri Ajesh Luthra, appearing on behalf of the respondents, has, however, contended that the applicant is not entitled to the aforesaid relief as he has not availed of the departmental appeal which was open to him after he was declared physically unfit. In our view, having regard to the attendant facts and circumstances as also the position of the applicant who has applied for the post of a Constable, it would be unjust to deny the aforesaid relief merely on the aforesaid technical ground.

3. In the circumstances, we direct the appellate board consisting of the Assistant Commissioner and the Deputy Commissioner of Police to re-examine the applicant for the purpose of

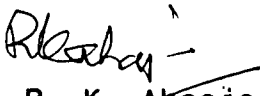


determining his physical fitness for the post of Constable. Since the written test is scheduled to be held on 6.2.2000, the applicant will approach the DCP, 2nd Bn., DAP, Kingsway Camp, Delhi and collect his roll number for facilitating him to appear in the written examination. Applicant will carry with him the admit card as at Annexure A-1 at the time of collecting his roll number. It is clarified that performance of the applicant at the written examination will be subject to the outcome of the aforesaid physical test which may be arranged by the respondents on a subsequent date.

4. Present O.A. is disposed of with the aforesaid directions. There shall, however, be no order as to costs.

Copies of this order be supplied to both parties forthwith.


(Ashok Agarwal)
Chairman


(R. K. Ahooja)
Member (A)

/as/