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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2288 of 1989

New Delhi this the 05th day of December, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. B.N. Dhoundiyal, Member

Shri Rajendra Awasthi
C/o Mr. Raj Awasthi,
Old Distillary Road,
Ambikapur, District Sarguja,
Madhya Pradesh-495001.

...Applicant

By Advocate Shri A.K. Behera

Versus

1. Union of India through
Secretary,
Min. of Environment & Forests,
Paryavaran Bhawan,
C.G.O. Complex,
Iodhi Road,
New Delhi-110003.

2. Secretary,
Ministry of Health,
Nirman Bhawan,
New Delhi.

...Respondents

By Advocate Shri M.M. Sudan

ORDER (ORAL)

The applicant appeared in the Indian Forest Service Examination, 1987. He was declared successful. Before the issue of the letter of appointment, he was subjected to a medical examination. The Medical Board declared him physically unfit on account of "defective colour vision". The Appellate Board agreed with the findings of the Medical Board and, therefore, the applicant was not given an appointment. Feeling aggrieved, he came to this Tribunal by means of this O.A.

At the commencements of the examination of 1987, certain instructions were issued.

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These instructions have now acquired the nomenclature of rules. Indisputably, these are not statutory rules. However, in the absence of statutory rules, they should be adhered to. For testing colour vision, definite guidelines had been laid down in the rules. The guidelines, as material, were: "Satisfactory colour vision constitutes recognition with ease and without hesitation of signal red, signal green and white colours. The use of Ishihara's plates shown in good light and suitable lantern like Edrige Green's shall be considered quite dependable for testing colour vision. While either of the two tests may ordinarily be considered sufficient, it is essential to carry out the lantern test. In doubtful cases where a candidate fails to qualify when tested by only one of the two tests, both the tests should be employed." We may immediately state that it is not the case of the applicant that the said tests were not applied in his case.

Learned counsel for the applicant has placed great reliance upon the following, which forms part of the rules:-

"It should be understood that the question of fitness involves the future as well as the present and that one of the main objects of medical examination is to secure continuous effective service, and in the case of candidates for permanent appointment to prevent early pension or payments in case of premature death. It is at the same time to be noted that the question is one of the likelihood of continuous effective service and that rejection of a candidate need not be advised on account of the presence of a defect which is only a small proportion

of cases is found to interfere with continuous effective service".

This guideline is in consonance with Regulation 12 of the Indian Forest Service (Appointment by Competitive Examination) Regulation, 1967. The said Regulation, *inter alia*, provides that no candidate shall be appointed to the service who is not found to be in good mental or bodily health and free from any mental or physical defect likely to interfere with the discharge of the duties of the service. It is obvious that the defect mental or physical should have a rational relationship to the discharge of the duties of the service. In other words, there should be a nexus between the defect and the discharge of the duties.

We have before us the medical examination report of the applicant which has been produced by the learned counsel for the respondents. This bears the signature of the Chairman and of two members. It is dated 21.08.1988. Report of the Medical Board in relation to eyes is: "defective colour vision". Query No.14 is: "is there anything in the health of the candidate likely to render him/her unfit for the efficient discharge of duties in the Indian Forest Service". As against this query, the answer is: "unfit on a/c of defective colour vision". Query No.15 is: 'has he been found qualified in all respects for the efficient and continuous discharge of duties in the Indian Forest Service". The answer, as against this query is: "unfit on a/c of defective colour vision". The applicant was subjected to the aforesaid medical examination at the Ram Manohar Lohia Hospital, New Delhi.

The applicant exercised his option of filing an appeal against the decision of the Medical Board. On 20.03.1988, the Ministry of Environment and Forests requested the Chairman, Central Standing Medical Board, Safdarjung Hospital, New Delhi to give a second medical opinion on the question of fitness of the appointment to the Indian Forest Service in relation to the applicant.

On 08.06.1988, the Assistant Medical Superintendent for the Chairman, Central Standing Medical Board, Safdarjung Hospital sent a communication to the Under Secretary, Ministry of Environment and Forests stating therein that on 07.06.1988, the applicant had been examined. The proceedings of the Board were annexed. The said report contained the following:-

"Examined the candidate for colour vision and found as follows:-

Colour vision tested on Ishiahana plates - grossly defective colour vision tested on E.G. Lantern test with different apertures is found partially defective.

Candidate is declared unfit for Indian Forest Service".

This report bears the signature dated 7.6.1988 of the applicant.

We have already referred to the relevant contents of the medical report of the team of the doctors at the Ram Manohar Lohia Hospital. In our opinion, the Board at the said Hospital substantially complied with the guidelines aforesaid, as it clearly took the view that the defective colour vision was likely to render the applicant unfit for efficient discharge of

duties in the Indian Forest Service. It has to be presumed that the Board at the Safdarjung Hospital concurred with the opinion of the Board at the Ram Manohar Lohia Hospital that the nature of the disease from which the applicant suffered rendered him unfit for being given an appointment as an officer of the Indian Forest Service.

No allegation of mala fide has been made by the applicant either against any member of the Ram Manohar Lohia Hospital or against any member of the Safdarjung Hospital. It has, therefore, to be taken that the members of the two Boards acted fairly while examining the applicant.

Counsel for the applicant has relied on a judgment of the Hyderabad Bench in the case of A. Sankara Reddy Vs. Chief Medical Officer, South Central Railway and Others, 1989 (5) SIR (CAT). There sub-para (3) of paragraph 501 of the Indian Railway Medical Manual was in paramateria with the aforequoted guidelines. In sub-para (8) of paragraph 502 it was stated that if any defect is found, it must be noted in the certificate and the Medical Examiner should state his opinion whether or not it is likely to interfere with the efficient discharge of the duties. The said paragraph 501 and 502 were applicable to Gazetted officers. However, the learned members of the Tribunal applied the principles contained in the said two paragraphs to the non-Gazetted officers also. We fail to understand as to how this case advances the case of the applicant. We have already indicated that the Medical Board at the Ram Manohar Lohia Hospital substantially complied with the conditions of the guidelines as it categorically took the view that the defect in the eye of the applicant rendered him unfit to discharge the

duties of an officer in the Indian Forest Service.

We come to the conclusion that there is no infirmity in the reports of the Medical Boards either at Ram Manohar Lohia Hospital or the Safdarjung Hospital. It follows that the applicant was rightly refused a letter of appointment to the Indian Forest Service.

The application fails and is dismissed but without any order as to costs.

B.N. DHOUNDIYAI
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MEMBER (A)

S.K. DHAON
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VICE CHAIRMAN

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