

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA.1275/88

Date of Decision: 21.10.93

Mrs. Kusum Lata - Applicant

Versus

Commissioner of Police- Respondents

CORAM:

Mr. C.J. ROY, Hon. Member(J).

Mr. P.T. THIRUVENGADAM, Hon. Member(A).

Shri B.S. Charya - Counsel for the applicant

Shri Sukhbir Singh, SI - Departmental representative

for the respondents.

JUDGEMENT(Oral)

(delivered by Hon. Member(J) Shri C.J. ROY)

This is an old matter of 1988. The respondents were directed vide order dated 19.10.93 to produce the actual requirement of the eye sight for the post, for which the applicant has applied for, as prescribed in the recruitment rules, besides, the Hand Book in regard to Medical Examination for Non-Gazeted posts along with Recruitment Rules and the report of Medical Examination of the candidate, at the time of next date of hearing.

2. Today, when the case was taken up for hearing, the departmental representative for the respondents produced before the Court all the required documents, as directed therein, for our perusal. The file of the applicant with reference to the examination of eye

10

sight is the bone of contention for her employment as Assistant Librarian under Delhi Administration. The applicant has otherwise fulfilled all terms and conditions for being eligible for the above post except for the vision aspect, with or without glass. We have seen the Doctor's certificate and also the appellate order. The medical certificate dated 5/2/88 with reference to the vision of the applicant issued by the Office of the Medical Superintendent cum Medico Legal Expert Civil Hospital, Delhi Administration declared 'unfit due to defective vision' without giving elaborate reasons. Therefore, it does not throw any light nor enlighten us as to the exact nature of the problem the applicant is suffering, for which her candidature has been rejected for selection and appointment. In the Form No.D at page 26 of the department file it is noted below the column of strength of glasses that R.E. is 6/6 and L.E. is 6/6. (with glasses) and below the naked eye column is given as R.E. 6/60 and L.E. 6/60 (without glasses). Form No.E at page-28 (Police Department Certificate) signed by Dr. B. Singh, Medical Superintendent, Civil Hospital shows that the candidate has no disease, constitutional infection, bodily infirmity, except 6/60 and 6/60 which he does not consider as a disqualification for employment in the Delhi Police as Temporary Assistant Librarian (Civil). We have also seen the relevant portion in the Recruitment Rules with regard to 'Appointment of Librarians /Statistician (Sub-Inspector)'. These rules describe only selection for direct appointment to the posts of Librarian and Statistician. There is no separate mention with regard to the medical standards for

my

Assistant Librarians. It may also be noted that the applicant had made a representation on 15.6.88, which is on the department file and also placed on record as Annexure P-12 at page 26 of the OA stating that as per the medical standards vision of 6/6 with glasses should be acceptable.

3. The learned counsel for the applicant drew our attention to the letter dated 26.7.88 addressed to the Commissioner of Police by the Office of the Medical Superintendent cum Medico Legal Expert Civil Hospital, Delhi Administration, which is reproduced below:

"With reference to your letter No.10170/Estt.(R) dated 22.7.88, on the above cited subject, it is stated that health standard for the Librarian/Statistician (Sub Inspector) as mentioned in the Delhi Gazette, Govt. of India dated 31st December, 1980 on page-945, page-13 is as under:-

"Sound State of Health, free from defect/deformity/disease. Vision in the better Eye 6/6, without Glasses, Vision in the worse eye 6/36, corrected with glasses upto 6/9. The candidate should be free from colour blindness."

The candidate in question had vision 6/60 in both eyes without glasses."

3. It is the case of the applicant that the post of Assistant Librarian is a civil post for which no rules at all have been laid down and the quoting of the above medical standards in the case of the applicant is without any basis.

4. We have already heard the learned counsel for the respondents and the case remained part heard. The fact of the case is that the applicant was sponsored by the Employment Exchange for the post of Assistant Librarian in the Delhi Administration and was selected after undergoing written test and interview. She was

medically examined and declared unfit for the post by the competent medical authority. She has prayed for setting aside the order of the respondent dated 10.2.88 by which she was declared medically unfit due to defective vision and holding that the standards/rules as quoted in the letter of the respondents dated 1.3.88 are not applicable to the post of Assistant Librarian (Civil) and the Central Government/Delhi Administration rules/instructions are to be applied. The vision 6/6 possessed by her with glasses does not render her medically fit and she is entitled to be declared medically fit and consequently for appointment to the post of Assistant Librarian (Civil) with all consequential benefits in terms of pay, allowances etc. from 10.2.88, the date she would have been given appointment to the said post, if she had not been wrongfully declared as medical unfit.

5. The learned counsel for the applicant submits across the bar that neither the appellate order nor the medical details have been given to her for making proper representation. The respondents have not denied her contention in the counter except stating that after medical examination, she has been declared unfit by the doctor for defective vision.

6. The Rule-6(iv) of the Delhi Police (Appointment and Recruitment) Rules, 1980 reads as under:

"No person shall be appointed to any post in Delhi Police unless he has been certified on form D and E as physically fit for police service by a medical authority to be appointed for the purpose by the Commissioner of Police."

13
7. This rule by itself would not appear to debar the applicant from consideration. Specific medical standards as applicable to the post of Assistant Librarian in Delhi Police have not been convincingly produced. Hence, we consider it would be fit and proper to issue the following directions:

- (a) The respondents are directed to dispose of the representation of the applicant by getting her re-examined by a medical board as expeditiously as possible, specifically mentioning about the requirement of vision, with or without glass for the post of Assistant Librarian in Delhi Administration.
- (b) If the applicant is declared fit by the Medical board and satisfies the recruitment conditions as per the said medical report, the respondents are directed to consider her case for appointment within a period of one month from the date of receipt of medical report.
- (c) The applicant should also cooperate with the respondents in getting medically reexamined.
- (d) The expenditure shall be borne out by the respondents as was done previously.
- (e) The claim of the applicant for payment of arrears for the period for which she has not been appointed due to the fault of the respondents, is not accepted. However, the applicant is at liberty to make a representation to the respondents in this regard, in case she is found medically fit and appointed.

8. The OA is disposed of with the above orders and directions. No order as to costs.

P. J. Thiruvengadam

(P.T. THIRUVENGADAM)
MEMBER(A)
21.10.93

C. J. Roy
(C.J. ROY)
MEMBER(J)
21.10.93.