

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.No.1111/91
M.A.No.1401/91

Hon'ble Shri A.V.Haridasan, Vice-chairman(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 12th day of July, 1995

Shri Rajender Kumar Khatri
s/o Shri Sukh Ram Khatri
r/o H.No.2028
Pilanji Kotla Mubarakpur
New Delhi - 32. Applicant

(By Shri Mukul Talwar, Advocate)

Versus

Union of India: through

The Secretary
Department of Personnel & Training
North Block
New Delhi.

The Chairman
Staff Selection Commission
C.G.O.Complex
Lodhi Road
New Delhi.

Lt. Governor
Delhi Administration
Delhi.

Commissioner of Police
Delhi Administration
I.P.Estate
New Delhi. Respondents

(By Mrs. Avnish Ahlawat, Advocate)

ORDER(Oral)

Hon'ble Shri A.V.Haridasan, Vice-chairman(J)

According to the Delhi Police (Appointment & Recruitment) Rules, 1980, 50% of vacancies in the rank of Sub-Inspector (Executive) are to be filled by direct recruitment and 50% by promotion out of 50% direct recruitment quota; 10% of the posts are to be filled by limited department competitive tests from amongst the sub-ordinate officers in the Department. Rule-7 regarding recruitment of Sub-Inspector (Executive) reads as follows:

"7. Recruitment of Sub-Inspectors (Executive):- Fifty per cent of vacancies in the rank of Sub-Inspector (Executive) shall be filled by direct recruitment and 50% by promotion out of 50% direct quota, 10% of the posts shall be filled by limited department competitive tests from amongst Constables, Head Constables, and Asstt. Sub-Inspectors with minimum 5 years of service who shall not be more than 35 years (40 years for Scheduled Castes/Scheduled Tribes candidates) of age on the first day of January of the year if the examination is held in the first half of the year and on the first day of July of that year if the examination is held in the later half of the year. The educational qualifications and other physical standards for the test shall be the same as prescribed in the Rules for direct recruitments to such posts. The unfilled vacancies reserved for the departmental candidates will be carried forward for 3 recruitment years as in the case of vacancies for the scheduled tribe candidate whereafter the unfilled vacancies will be filled by direct recruitment.

Education, physical and other standards for the post of Sub-Inspector (direct recruited) shall be as under:-

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| (1) Age | .. 20-25 | Relaxable by 5 years only for Scheduled Castes/Scheduled Tribes & departmental candidates. |
| (2) Height | .. 170 centimetres | Relaxable by 5 centimetres centimetres only for residents of Hill areas e.g. Gurkhas, Garhwalis. |
| (3) Chest | .. 81 cm. to 85 cm. | Relaxable by 5 centimetres for residents of hill areas. |
| Added vide Notification No.F.5/67/83-Home/(P) Estt., dt. 15.11.1985. | | Note:- "The relaxation in physical standards once granted at the time of initial appointment in Delhi Police will hold good till the individual concerned remains in Delhi Police". |
| (4) Educational Degree from a Qualifications recognised University. | No relaxation. | |
| (5) Physical standard | Sound health free from defect/deformity /disease, both eyes vision 6/12 (without glasses, No colour blindness.) | No relaxation. |
| (6) Reservation | .. (1) From Scheduled Castes, Scheduled Tribes & Ex-servicemen etc., as per orders issued by Government from time to time.
(2) For departmental candidates 10% of vacancies." | |

2. The applicant who was serving as Constable in Delhi Police appeared for selection for appointment as Sub-Inspector (Executive) Delhi Police conducted by the Staff Selection Commission on 31.5.1987 and passed the written test. His candidature was rejected on 8.10.1987 as on verification of the physical measurements, he was found 2 cm. short in chest measurement. He preferred a representation to the Lt. Governor of Delhi who was pleased to direct for taking another physical measurement of the applicant. The D.C.P. Headquarter(I) Delhi wrote a letter to Staff Selection Commission on 30.10.1987 requesting them to take another physical test of the applicant with a copy to the DCP (South District), New Delhi, requesting him to direct applicant for appearing before the concerned authority but the letter reached the applicant after the date fixed for the second physical test. The applicant submitted an application to the Staff Selection Commission through the DCP on 15.12.1987 but he did not get any response at all. His further representation to the Lt. Governor of Delhi also did not receive any response. Thereafter, in the month of October, 1990, he made a further representation. Then, stating that on account of several adverse circumstances like illness and death of his father during 1987-90 he could not take legal steps for getting his grievances redressed, the applicant has filed this OA with a Miscellaneous Application for condonation of delay praying that the respondents may be directed to allow the applicant for a test and interview and if found suitable to appoint him as Sub-Inspector on the basis of the selection made in the year 1987. The applicant has prayed on the above relief on various grounds but many of the ground that as he was already serving in the Delhi Police Department a further verification of chest measurement and height was not necessary

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at all. In support of this contention, the applicant has relied on the decision of the Delhi High Court in Shri Shambu Dayal Vs. Union of India's in Civil Writ Petition No.1227/88.

3. The application is opposed by the respondents and they have filed a detailed reply statement.

4. We have heard the learned counsel for the parties and have perused the pleadings in this case and also the relevant rules. Referring to the Rule-7 of the Delhi Police (Appointment & Recruitment) Rules, 1980, learned counsel for the applicant argued that the rule makes a distinction between direct recruitment from open market and the serving police officials, in that, the age and other standards prescribed for the two categories are different. He invited our attention to the following procedure in the rule:-

"The educational qualifications and other physical standards for the test shall be the same as prescribed in the Rules for direct recruitments to such posts and to the physical standard shown as Clause 5 under the rules."

5. The learned counsel for the applicant argued that once a police official satisfies the educational qualifications and also physical standards shown in clause 5 namely, sound health, free from defect/defermity or disease and normal vision without glasses and not being colour blindness physical measurements mentioned in clause 2 and 3 need not be verified again.

6. A copy of the Judgment of the Delhi High Court in Shri Shambu Dayal (supra) has been made available for our perusal. It appears that the learned single judge, on intrepretation of Rule-7 of the Delhi Police (Appointment & Recruitment) Rules, 1980 took the view that physical standards meant only the

physical standard shown as clause - 5 under the education and physical and other standards prescribed in Rule-7 and therefore, in the case of a serving police official qualifications mentioned in the clause-2 and 3 namely, height and chest need not be insisted upon. With great respect, we are unable to persuade ourselves to agree to the view taken by the learned single judge of the Delhi High Court. A careful reading of Rule-7 would clearly indicate that the relaxation in the case of the serving police officials was only in age and not in educational and other physical standards. In the body of the Rule-7 stated at is the educational qualifications and other physical standards for the test shall be the same as prescribed for direct recruitment in such posts. Clause-5 under Rule-6 deals with only physical standards. The other physical standards mentioned in the body of the rule include height and chest measurement, as also the condition of health and vision. A candidate though serving in a department does not ~~not~~ satisfy the physical standards which include the height and chest measurements, he does not fulfill the qualifications for being selected. Therefore, we are of the considered view that the rejection of the candidature of the applicant as he did not possess the requisite physical measurements cannot be faulted.

7. As the applicant has not been selected after a proper selection process, the prayer of the applicant for directing the respondents to appoint him on the basis of selection of 1987 is misconceived. After the physical test, there was an interview also provided for which is evident from the prayer (a) in para 9 of the application that the respondents may direct to allowed him to appear for the. The applicant has not been interviewed and therefore, he is not subject to the full selection process.

8. We are now told that the applicant has been, after a proper selection, appointed as a Sub-Inspector (Executive) in the Delhi Police. However, in the facts and circumstances and discussions above, we are convinced that the application is devoid of any merits. In the result, this application is dismissed. Parties may bear their own costs.

R.K.Ahooja
(R.K.AHOOJA)
MEMBER(A)

/RAO/

A.V.Haridasan
(A.V.HARIDASAN)
VICE-CHAIRMAN(J)