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**Central Administrative Tribunal
Principal Bench**

O.A. No.1569/2004

New Delhi, this the 4th day of March 2005

**Hon'ble Shri Justice V. S. Aggarwal, Chairman
Hon'ble Shri S. K. Naik, Member (A)**

Monika
D/o Shri Lalit Prasad
R/o C-4, Anand Vihar
Nagli Sakrawati
Main Najafgarh Road, New Delhi-43

..Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

Union of India & others through

1. The Secretary
Govt. of India,
Ministry of Home Affairs
Central Secretariat,
North Block, New Delhi
2. The Commissioner of Police
Delhi Police
Police Head Quarter
ITO New Delhi
3. The Deputy Commissioner of Police
O/o Commissioner of Police
Police Headquarters
ITO, New Delhi

..Respondents

(By Advocate: Shri Ajesh Luthra)

ORDER

Shri S. K. Naik:

The applicant in this OA had applied for the post of ASI (Steno) in Delhi Police in response to an open Advertisement. The respondents, vide their letter dated 5.9.2003, invited her for physical measurement test, which was held on 24.9.2003. In the said letter, the applicant had been advised to report to the respondents along with the following documents in original:

- "1. This letter for identification.
2. All Educational certificates, Employment Exchange Card etc.
3. The candidates belonging to hill area, i.e. Gorkha, Garhwalies etc. claiming relaxation in Height and Chest would have to

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produce a certificate issued from the competent authority i.e. DC/DM/SDM or Tehsildar of the place of residence.

4. Caste certificate in case of SC/ST/OBC and discharge certificate in the case of Ex-SM.
5. Two passport size photographs, duly attested by a serving G.O."

2. The applicant appeared before the respondents but without the certificate, as stated in clause 3 above, was allowed to undergo the test.

3. After the physical test, the applicant was declared provisionally qualified in the physical measurement test subject to the production of hill area certificate issued by the competent authority. Thereafter, the applicant was asked to produce the hill area certificate issued by the competent authority vide respondents' letter dated 31.10.2003 within a period of 20 days. The applicant, however, produced a domicile certificate instead of the hill area certificate on 10.11.2003. The respondents, therefore, asked the applicant once again to produce the hill area certificate issued by the competent authority vide their letter dated 15.12.2003 within 15 days. On 26.12.2003, the applicant submitted the hill area certificate dated 16.10.2003 issued by the Deputy Commissioner, Lansdown, Distt. Pauri Garhwal.

4. The respondents have rejected the candidature of the applicant on the ground that the hill area certificate produced by the applicant is dated 16.10.2003 whereas the same ought to have been issued prior to 5.3.2003, which was the last date of submission of application form for the grant of relaxation in height, Her subsequent representations have also been rejected. Aggrieved thereupon, the applicant has filed the present OA.

5. The short point involved for adjudication is whether after the applicant was declared provisionally qualified in physical measurement test subject to production of hill area certificate, her candidature could be rejected on the ground that the hill area certificate produced does not bear a date prior to the last date of submission of application form.

6. Learned counsel for applicant has contended that once the respondents have allowed her to undergo the physical measurement test subject to the production of the hill area certificate and thereafter they have advised her in writing to produce the same, their argument that the hill area certificate should have been issued by the competent authority prior to the last date of submission of application form, has no logic and cannot be held to be a valid ground to reject her candidature. He has contended that vide

their letter dated 31.10.2003, the respondents had required the applicant to submit an affidavit with a specific mention therein that the area is notified as hilly area. It was nowhere stipulated in the said letter or in the subsequent letter dated 15.12.2003 that the certificate to be issued should have a date prior to 5.3.2003. He has, therefore, argued that rejection of her candidature solely on the ground that the certificate is not of a date prior to 5.3.2003 is absolutely unjust, unfair and arbitrarily.

7. The respondents have contested the OA. Learned counsel for respondents has argued that as per the Advertisement, the candidate was required to have come along with the hill area certificate at the time of the physical test. However, since she had not brought the same, she was provisionally allowed to undergo the physical test and was so declared provisionally subject to the production of the hill area certificate. It was, therefore, necessary for her to produce a certificate, which ought to have been procured by her from the competent authority prior to the last date of submission of application form.

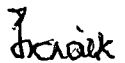
8. Referring to note 9 of the Advertisement for recruitment, learned counsel contends that the respondents have reserved their right to reject the application at any stage without assigning any reason if any candidate had not complied with the requirements. Thus, even though she was provisionally permitted to undergo the physical test, the respondents' right to ensure that she fulfilled all other conditions could not be treated to have been given up just because she was asked to produce the hill area certificate. He contends that the matter was still under process and it was only after the hill area certificate was produced, which was not issued prior to the last date of submission of application form that the competent authority has finally decided that the applicant did not fulfill the requisite conditions and, therefore, has rightly rejected her candidature.


9. We have heard the learned counsel for the parties as also have perused the records of the case. It is clear from the letter dated 5.9.2003 vide which the respondents asked the applicant to appear for physical measurement test that she was to appear for the test along with the hill area certificate. Since the applicant had not brought any hill area certificate, she ought not to have been permitted to undergo the physical measurement test but once the respondents allowed her to under physical measurement test and declared her provisionally qualified subject to the production of the hill area certificate, in our view, it would be unjust and unfair not to treat the hill area certificate dated 16.10.2003 as valid on the ground that it should bear a date prior to the last date of submission of application form. Since they have

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not rejected her candidature at the threshold and have given advised her time to produce the hill area certificate without indicating that such a certificate should bear a date prior to the date of last date of submission of application form, their action to reject the same will not be sustainable. After all, in her representation, she has made it clear that she belongs to a hilly area and that position would not get altered irrespective of the date of issue of the certificate. Under the circumstances, we are of the view that the rejection of the candidature of the applicant solely on the technical ground that the hill area certificate produced by her was not issued prior to 5.3.2003, i.e., the last date of submission of application form cannot be sustained.

10. Resultantly, we allow this OA and set aside the impugned orders without any order as to costs.


(S. K. Naik)
Member (A)


(V.S. Aggarwal)
Chairman

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