

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 141/1992

Date of decision:21.05.1992.

Shri Bani Singh

Applicant

Vs.

Delhi Administration & Others

...Respondents

For the Applicant

Shri M.M. Sudan,
Counsel

For the Respondents

Ms. Geeta Luthra,
Counsel

CORAM:

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. I.K. RASGOTRA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT(ORAL)

(of the Bench delivered by Hon'ble Shri P.K. Kartha,
Vice Chairman(J))

The grievance of the applicant who has worked as a Labourer in the Horticultural Department of the Delhi Administration since 1984 relates to the termination of his services by order dated 25.07.1991. He has also prayed for his reinstatement in service with all consequential benefits including arrears of pay and regularisation in service.

2. The applicant was due for regularisation in accordance with the Judgment of the Supreme Court in Writ Petition No. 9609-10 of 1983 decided on 29.09.1988. The applicant

was called for interview and was found fit. When he was sent for medical check-up, the Staff Surgeon of the Hospital concerned, declared him medically unfit on the ground that he was suffering from Tuberculosis of the right lung. He was also informed that in case he intended to represent against the Medical Report, he may do so within 30 days for re-examination by the Medical Board. In that event, he was to produce two Medical Certificates given by Medical Officers with ² M.B.B.S. degree stating that he was not suffering from the disease for which he was disqualified by the Civil Surgeon.

3. The applicant submitted a representation to the respondents on 23.08.1991 along with Medical Certificates. The respondents, however, rejected his representation on the ground that the Medical Certificates produced by him were not in accordance with the provisions of SR 4.

4. We have gone through the records of the case carefully and have heard the learned counsel of both parties. According to SR 4(2)(c) the Medical Certificate to be produced by the Government servant should contain a note by the medical practitioner concerned to the effect that it has been given in full knowledge of the fact that ^{the} candidate has already been rejected as unfit for service by a Medical

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Board, a Civil Surgeon or other Medical Officer. There is no such note in the certificates produced by the applicant along with the representation.

5. After hearing both sides, we dispose of the application with the direction to the respondents to refer the case of the applicant to the Medical Board after the applicant produces two Medical Certificates from Medical Practitioners within a period of one month from today's date in accordance with the provisions of SR 4, mentioned above. The respondents shall refer the case of the applicant to the Medical Board for re-examination as expeditiously as possible but in no event later than one month from the date of receipt of the copy of the representation given by the applicant along with Medical Certificates in the proper form.

6. We make it clear that in case the applicant is found fit by the Appellate Board, he would be entitled to all consequential benefits.

7. The application is disposed of accordingly.

There will be no order as to costs.

I.K. RASGOTRA
(I.K. RASGOTRA)
MEMBER (A)
21.05.1992

P.K. KARTHA
(P.K. KARTHA)
VICE CHAIRMAN (J)
21.05.1992

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