

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 2053/92

New Delhi, this the 29th May, 1995

Hon'ble Shri J.P. Sharma, Member (J)
Hon'ble Shri K. Muthukumar, Member (A)

Shri Surender Kumar,
s/o Shri Mangtu Ram,
R/o B/139, Humayunpur,
New Delhi.

... Applicant

By Advocate: Shri G.D. Gupta

Vs.

Union of India,
through the
Secretary,
Ministry of Environment & Forests,
Parivaran Bhavan,
Lodhi Road, New Delhi.

... Respondents

By Advocate: Shri P.H. Ramchandani,

O R D E R

Hon'ble Shri J.P. Sharma, Member (J)

The applicant qualified and was empanelled as per merit in the select list of the Indian Forest Service (IFS) Examination of 1989. The applicant secured 31st position in order of merit. The applicant, however, could not be given appointment because of having declared unfit on the ground of defective colour vision. The appeal against this medical examination was also rejected. He, therefore, filed this application after making unsuccessful representations to the respondents for re-medical

:2:

examination. The reliefs claimed in this application are that the applicant's medical fitness be re-determined according to the lower grade of colour vision and if he qualifies, he should be appointed to the IFS without any loss of seniority as per merit position in the 1989 Examination.

The standard of medical fitness required of candidates in the year 1990 with regard to colour vision is as follows:-

- " Colour Vision - (i) The testing of colour vision shall be essential.
- (ii) Colour perception should be graded into a higher and a lower grade depending upon the size of the aperture in the lantern as described in the table below:-

Grade	Grade of colour perception
1. Distance between the lamp and candidate	16 feet
2. Size of aperture	1.3 mm
3. Time of exposure	5 sec.

- (iii) 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.

(3) Field of vision - The field of vision shall be tested in respect of all services by the confrontation method. Where such test gives unsatisfactory or doubtful results, the field of vision should be determined on the perimeter.*

The medical requirement for colour vision of 1991 IFS Examination was issued on 15.6.91 and which is reproduced below:-

*(2) Colour Vision - (i) The testing of colour vision shall be essential.
 (ii) Colour perception should be graded into a higher and a lower grade depending upon the size of the aperture in the lantern as described in the table below:-

Grade	Grade of colour perception
1. Distance between the lamp and candidate.	16 feet
2. Size of aperture	1.3 mm
3. Time of exposure	5 sec.

(iii) 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 Edridge 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 case where a candidate fails to qualify when tested by only one of the two tests, both the tests should be employed.

Note: For appointment to the Indian Forest Service, Lower Grade of colour vision will be considered sufficient."

The contention of the applicant has been that the above note was added to the Brochure for the 1991 examination only, what was ordered was a clarification that the job requirements of the IFS would be met by candidates with lower grade of colour vision. The Appellate Medical Board as well as Medical Board in the case of the applicant did not follow the aforesaid clarification. The Tribunal vide its order dated 27.10.93 passed an order on MP-649/93 directing the respondents to have the applicant medically examined in accordance with the relaxed standard, i.e. lower grade of colour vision which is stated to be the current prescription in this regard. This medical examination may be carried out within a period of one month and the result thereof be kept in the sealed cover. In pursuance to the above, a medical report was received of Medical for Ophthalmic Sciences, Board of Dr.R.P. Centre/IIIMS dated 21.1.94. That medical report is reproduced below:-

DR. RAJENDRA PRASAD CENTRE FOR OPHTHALMIC SCIENCES
ALL INDIA INSTITUTE OF MEDICAL SCIENCES
ANSARI NAGAR
New Delhi-110029.

No.F.5-3/RPC/94

Dated 21.1.94

Sub: Medical Report of candidate - Dr. Surender Kumar for the appointment of Indian Foreign Services by the Medical Board Constituted by Dr. S.K. Angra, Dr. Pradeep Sharma, Dr. S.P. Garg at this Centre on 21.1.94 at 2.30 p.m.

The patient Dr. Surender Kumar was examined for colour vision defect of Ishihara's Test for colour blindness and on CHROMOPSY (FARNSWORTH 100 HUE Test using an electronic coding system) and Edridge Green Lantern, it was found that the candidate is suffering from Gross (Strong) Degree of colour blindness.

Since the candidate is suffering from strong degree of colour blindness, he is unfit for the Indian Foreign Services as per the guidelines provided for the same.

Sd/-	Sd/-	Sd/-
(Prof. S.K. Angra)	(Dr. Pradeep Sharma)	(Dr. S.P. Garg)
Prof. of Ophthal	Assoc. Prof. of Ophthal	Addl. Prof. of Ophthal "

A confidential report was also given to correct a typographical error where for the Indian Foreign Service, the Indian Forest Service has been directed to be read and the second para was also to be read as under:-

"Since the candidate is suffering from strong degree of colour blindness, he is unfit for the Indian Forest Services as per guidelines provided for the same."

The respondents in their letter dated 21.1.94 has written to the Head of the Department Prof. (Dr.) S.K. Angra to medically examine the applicant for the colour vision and the clear

direction was given as follows in the appended note.

"In the present case, the candidate in question will now have to be put through medical examination for a third time, on the basis that the requirements for the IFS are 'lower Grade' of colour vision. As the candidate has been medically examined earlier by the Ophthalmologists at the Safdarjung Hospital, and the Dr. RML Hospital, it would be adviseable that he is now referred to an altogether different Board - either the Dr. RP Instt. of Ophthalmic Sciences, AIIMS, New Delhi, or such other Medical Board which would have qualified Ophthalmologists to examine and certify on the officer's colour perception."

The learned counsel for the applicant Shri G.D. Gupta has emphatically pressed that since this is the first medical opinion on the relaxed standard, so he should also be given another opportunity and this opinion on relaxed standard be directed to be tested by the Appellate Medical Board at the instance of the applicant.

The respondents have opposed the aforesaid contention of the applicant's counsel. The prayer in the M.A.1485/94 is in pursuance of the order dated 27.10.93 passed in M.P.No.649/93. It is prayed that the respondents be directed to get the applicant re-examined in the light of the instructions of the Central Govt. as issued for IFS Examination 1991 at any of the hospitals in New Delhi. Almost the points raised for grant

of this relief is that after the applicant was medically checked by Dr. Rajendra Prasad Centre for Ophthalmic Sciences, the applicant got himself tested by the known Specialist of Ophthalmic. The certificate of Prof. (Dr.) N.N. Sood of Shroff Eye Centre goes to show that the colour vision tested on Ishiara Charts 38 Plates Edition, 1988 showed partial red green colour deficiency. Another certificate is of Dr. Madan Mohan, M.M. Eye tech and the colour vision tested showed partial red and green colour deficiency i.e. Low grade colour vision defect. In fact the court cannot sit as a medical expert and the law has been specifically laid down in the two recent decisions of Hon'ble Supreme Court of India, i.e. in the case of ICAR Vs. Shashi Gupta reported in AIR 1994 SC 1241 and in the case of SBI Vs. G.K. Deshak (1994 (26) ATC 736).

In both the decisions, the Hon'ble Supreme Court considered the matter whether the interference can be made in the medical examination conducted as per the prescribed standard by the Court or Tribunal and while quashing the judgement of the Court and the Tribunal held that the Court cannot substitute as itself expert body for giving medical opinion regarding fitness of a candidate for a particular service. Now seeing to the history of this case, it is apparently clear that the letters written

to the prestigious Eye Clinic of AIIMS, in para 5 reproduced above directed the applicant to be tested on the lower grade of colour vision. There is no doubt that the examination has been conducted by a Board of experts consisting of Prof. S.K. Angra, Prof. of Ophthal, Dr. Pradeep Sharma, Assoc. Prof. of Ophthal and Addl. Prof. of Ophthal Dr. S.P. Garg. This opinion corroborates the earlier two opinions when the applicant was initially examined on unrelaxed standard but the basic point remains that there is observation "that the candidate is suffering from strong degree of colour blindness." The relaxed standard which has been quoted above with respect to the note for appointment to the IFS, lower grade of colour vision will be considered sufficient. The expert medical opinion has been given that there is a strong degree of colour blindness. The opinion of the Medical Board constituted on the direction of the Tribunal in every case has to a precedence over certain medical opinion sought by the applicant privately. There is no animus or prejudicial attitude shown by the higher dignitaries who conducted the medical examination of the applicant. High dignitaries cumulatively have discharged the functions on their own professional capabilities which has not been challenged either in the M.A. or in the O.A.

Therefore, the M.A.1485/94 has no case for referring again to the another Medical Board for re-examination of the applicant, as the formality of examination and re-examination can never ~~end~~ unless the applicant is satisfied with a result in his favour.

As regards the merit of the present application, the applicant was examined by the Central Standing Examination Board, Safdarjung Hospital, New Delhi on 30.11.90. The finding of the said Board has been that the applicant was not considered fit for appointment to the IFS and that was conveyed to him. On his representation, the applicant was referred to the Appellate Medical Board constituted by Dr. RML Hospital, New Delhi and the Appellate Medical Board also found the applicant unfit for appointment to the IFS. The candidature of the applicant, therefore, was cancelled on 30.11.90. It was only thereafter in April, 1992 that a representation was preferred by the applicant and it was, therefore, rejected by the respondents on the ground of laches and delay and the rejection was conveyed to him by the letter dated 12.5.92. Thus, the applicant had already been declared unfit by the competent medical authorities and when re-examined on the direction of the Tribunal, by the relaxed

:30:

standard by another Medical Board constituted by Dr. Rajendra Prasad Centre for Ophthalmic Sciences, New Delhi, they also considered the applicant unfit.

In view of this, the Tribunal cannot substitute its own opinion or repeatedly referred the applicant who has been rejected thrice for the medical opinion.

The applicant has also cited certain case. But that is not relevant because Shri S.K. Ojha was declared fit by the Appellate Medical Board while the applicant in this case could not fulfil the medical standard required for appointment to the IFS. The applicant, therefore, should not have any grievance or that he has been discriminated in any manner and one Shri S.K. Ojha was given preference.

The learned counsel for the applicant also argued that the applicant was offered an appointment in the ICAR and was medically found fit with regard to colour vision. A copy of that medical examination report has been filed by the applicant and we have gone through the same. That report is of Medical Officer of Safdarjung Hospital, New Delhi. In fact the service the applicant wants to join is having an eligibility with regard to medical standards
On for each candidate. Those medical standards

the candidate has to be examined. Since the colour vision of the applicant was not found as per medical standards, so the certificate of Safdarjung Hospital with regard to the service of the applicant in ICAR would not supersede the three medical certificates of unfitness issued by the different Medical Boards.

In view of the above facts and circumstances, this is not a case where an interference can be made and the application is, therefore, dismissed as devoid of merit leaving the parties to bear their own cost.


(K. MUTHUKUMAR)
Member (A)


(J.P. SHARMA)
Member (J)

'rk'