

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.

O.A. No. 2132/92

Date of decision 16.3.93

Sh.Lalit Paul Biling ... Applicant

v/s

U.O.I. & Others ... Respondents

CORAM

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

Hon'ble Member Sh. S.R.Adige, Member(A)

For the Applicant ... Sh.B.B.Ravel, counsel

For the Respondents ... Sh. D.N.Goburdhan
counsel

JUDGEMENT

Delivered by Sh. S.R.Adige, Member(A) 7

In this application, Sh. Lalit Paul Biling, presently employed as Security Assistant in the Intelligence Bureau has prayed for a direction to be issued to the respondents to consider his representation for appointment to the post of Sub Inspector of Police Delhi, and dispose off the same by a speaking order within a stipulated time frame.

The applicants case is that he is a member of Scheduled Tribe, from Bihar State, his date of birth is 10-4-62, and he passed in B.A. Examination in the year, 1988. In response to an

advertisement issued by the respondents (Staff Selection Commission) and appearing in the Employment News of March 30-April, 15, 1991 (Annexure A-2) inviting applications for the post of Sub Inspectors of Police in Delhi, CBI and other Central Police Organisation, the examination for which was to be conducted in 1991, he submitted his application, and was found eligible to appear in the written test held on 4-3-91. He duly appeared in the written test, and was called to report for physical endurance test on 21-2-92. He accordingly reported for that test, and after completing the paper formalities his height was measured when he was told that he was not coming up to the mark in the height and was, therefore, not eligible and was asked to go away. He alleges that only constable in plain clothes were doing measurement and no Senior Officer were available on the spot. He contends that being a tribal from Chhota Nagpur, which is a hill area he is entitled to the concession/relaxation of 5 cms in the minimum prescribed height of 170 cms. and as his height is 168 cms (vide certificate at Annexure A-5) by adding 5 cms it comes to 173 cms which is more than ^{the m} minimum prescribed height.

In their reply, the respondents have referred to the relevant rules (Annexure-II) wherein the minimum height prescribed for directly recruited Sub Inspectors of Police is 170 cms, relaxable by 5 cms only for residents of hill areas e.g. Gorkhas, Garhwalis. The respondents states that the applicant is neither a Gorkhas/Garhwali ^{nor} ~~nor~~ has he produced any certificate of being a

resident of a hill area. He belongs to Gumla District of Bihar which is not a hilly area and ~~in~~^{as} the height relaxation is admissible only to Gorkhas and Garhwalis, the application is misconceived. The respondents have also denied that height measurement was taken only by a constable in plain clothes and no Senior Officer on the spot, as averred by the applicant. They have stated that the physical measurements of the applicant was conducted by the Deputy Commissioner of Police personally on 21.2.93.

We have heard Sh. B. B. Raval, Learned counsel for the applicant and Sh. D. N. Goburdhan, learned counsel for the respondents.

Shri Raval has drawn attention to the advertisement issued by the respondents which appeared in the Employment News dated 30-3-91 in which the physical requirements for Sub Inspection of Police stated are as under:-

Height : 170 centimeters - Relaxable by (Minimum) 5 cms. for residents of hill areas i.e. Gorkhas, Garhwal, etc.

Shri Raval has contended that the word ' e.g. "Gorkhas, Garhwalis" occurring after the words hill areas in the relevant rules and the 'word' etc. occurring after the word ^{as} Gorkhas,

Garhwalis in the advertisement dated 30th March-5th April, 1991 indicates that the ^{my} infusion of Gorkhas/ Garhwalis as residents of hill areas is only illus- trative and not exhaustive, and residents of other hill areas are also eligible for this concession.

In this connection he has also drawn attention to the certificate dated 3-10-92 issued by the Achal ^(Annexure A-11) Adikari Simdega, District Gumla, certifying that the petitioner hails from Simdega Police Station in Gumla District which is located in the hilly plateau area of south Chhottanapur in Bihar States, which has been filed with the rejoinder.

Shri Goburdhan on the other hand has argued that such documents cannot be filed at this stage of rejoinder, and has ^{reiterated} ~~stated~~ that relaxation / concession in height is available to Gorkhas and Garhwalis.

As the applicant has already represented before the respondents for consideration of his appointment as Sub Inspector of Police, and his prayer in this application before us is also limited to issue of a direction to the respondents to consider his representation and dispose of the same by a speaking order within a stipulated time frame, we do not propose to enter into the merits of the case at this stage.

We accordingly direct the respondents to give the applicant a personal hearing and thereafter consider and dispose of his representation in the light of the Extant Rules and instructions through a reasoned and speaking order within two months of the date of receipt of a copy of this order. In case any grievance survives thereafter, the applicant will be at liberty to approach this Tribunal afresh, if so advised.

Adige
(S.R. ADIGE)

MEMBER (A)

J. P. Sharma
(J.P. SHARMA) 16/3/93
MEMBER (J)