

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1309 of 1993

New Delhi this the 14th day of January, 1994.

CORAM:

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

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

Parveen Kumar s/o Shri Purshotam Lal,
presently working as Auditor,
Defence Audit Deptt. in the
Office of the Controller of Defence A/cs
New Delhi and r/o 1580/A, Rani Bagh, Shakurbasti,
Delhi-110034

By Advocate Shri K.L. Bhatia

.....Applicant.

Versus

Union of India through
the Secretary,
Department of Personnel & Training,
New Delhi -110001

2. The Chairman,
Staff Selection Commission,
G.G.O Complex,
New Delhi -110 003.

3. The Commissioner of Police,
Police Headquarters,
M.S. Buildings,
I.P. Estate,
New Delhi -110 002.

By Advocate Shri N.S. Mehta and
Ms. Ashoka Jain

.....Respondents.

ORDER (ORAL)

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

The applicant Shri Parveen Kumar appeared
in the examination for the post of S.I. (Executive)
in Delhi Police which was conducted by Staff
Selection Commission on 26.7.92 and he was
declared successful both in written and interview
as well as in physical endurance test held
according to the Delhi Police (Appointment &
Recruitment) Rules, 1980. The grievance of the

applicant is that despite his qualifying the written as well as clearing endurance test and medical examination, he has not been selected for appointment to the post of S.I. He, therefore, filed this O.A. in June, 1993 praying for the grant of reliefs, namely:-

- i) A direction be issued to the respondents to include the name of the applicant in the select list.
- ii) Costs of the proceedings.
- iii) Any other relief.

2. A notice was issued to the respondents. Respondent no. 3, Commissioner of Police, filed the reply through Ms. Ashoka Jain. Respondent no. 2 filed the reply through Shri N.S. Mehta, a Senior Standing Counsel, opposing the grant of the reliefs prayed for and almost taking the same stand that the applicant was not found medically fit to be appointed to the post of S.I. in the Delhi Police on account of defective vision. The respondent no. 2 also annexed with his reply certain documents in support of the averments made in the reply.

3. We have heard the learned counsel for the parties at length and perused the record.

4. The learned counsel highlighted the provisions of Rule 7 of the Delhi Police (Appointment & Recruitment) Rules, 1980 regarding the medical eligibility for recruitment to the post of S.I. (Executive) and regarding the physical standard where there is no relaxation. It is mandatory that the candidate must have possessed sound health, free from defect/ deformity, disease, both eyes vision 6/12 (without glasses) and there should be no colour-blindness.

Learned counsel also highlighted emphatically and with

force the provisions of Rule 24(1) which provide

that the candidates declared medically unfit,

shall be informed in writing of the reason of

unfitness.

5. The applicant has filed rejoinder to the

reply of respondent no.2 annexing with the rejoinder

certain opinions of the medical experts and certain

OPT of Guru Nanak Eye Centre. The applicant got his

eyes tested from Guru Nanak Eye Centre and Rajendra

Prasad Centre for Ophthalmic Sciences and in the

opinion of the experts of these Centres, the vision

of applicant's both eyes was 6/6 and 6/9. In the

rejoinder, the applicant has also stated that he was

referred to Guru Nanak Eye Centre as he had an in-

kling, that some doubt was being created about

his vision. He has further added that he was told

that unless greasing the palm of the concerned

staff, he cannot be cleared, though there is no

defect in his vision.

6. We have given a careful consideration

to the various contentions of the learned counsel

for the applicant raised before us. The applicant

has taken the case that he was never informed that

when and in what manner he has been declared

medically unfit. In this connection, the learned

counsel put the respondents to prove that when and in

what manner they informed the applicant about his

medical rejection. This argument appears plausible

on the face of record. A perusal of the record goes

to show that the medical examination was conducted

on 1.3.93 and the applicant was found unfit on account

of defective vision. This document is paper 51. The
(paper 52 & 53)
other document/is addressed to the Director, Guru
Nanak Eye Centre and for the sake of better
illustration, the whole of the letter is reproduced
as below:-

"The Director,
Guru Nanak Eye Centre,
Maharaja Ranjit Singh Marg,
New Delhi.

Subject: Regarding recruitment of SI(Ex.) in Delhi
police.

Sir,

16 prospective candidates(as per list enclosed)
for the post of SI(Ex.) in Delhi Police, who were
previously declared unfit by the Medical Superintendent
cum-Medico-Legal Expert, Civil Hospital, Delhi and went
in appeal, were referred to LNJP Hospital, Delhi
for their remedical examination but the Addl. Medical
Supdt., Chairman, Medical Board, LNJP Hospital has
returned their cases vide letter No.10 MB/Misc./JPH/
93/3382 dated 4.3.93(copy enclosed) saying that they
only constitute a medical board to examine the
candidates who had been examined fully by the Ist
Medical Authority. He has further advised that
these cases should be referred to Guru Nanak Eye
Centre, New Delhi for 2nd Medical opinion.

It is, therefore, requested that these
candidates may be tested in vision on 10,12,17 &
19.3.93 at 9a.m. in batches of 4 candidates each.
The prescribed medical standard in the Recruitment
Rules for the post is as under:-

Should possess sound health, free from
defect/deformity, disease, vision in both
eyes should be 6/12(without glasses).
There should be no colour blindness."

Encl: As above.

Yours faithfully,
sd/Y.S.Dadwal,
Addl. Commissioner of Police:OPS
Delhi.

LIST OF CANDIDATES DECLARED UNFIT IN VISION TEST

Sl.No.	Name of the Candidate	Roll No.	Date of re-test
1 to 5	-	-	-
6.	Sh.Parveen Kumar	1216619	12.3.93.
7 to 16	xxxxxxxxxxxxx "		

7. The name of the applicant appears at Sl.
No.6. The Director-Professor(GNEC) had also written
a letter to the Assistant Commissioner of Police(HQ)
(P) on 24.3.93 (paper no.54) and that is also
reproduced as below:-

"GURU NANAK EYE CENTRE
DELHI ADMINISTRATION:DELHI

Maharaja Ranjit Singh Marg,
New Delhi.

No. PA/DMS/GNEC/MB/2742 Dated: 24.3.93.

To,

Shri Pratap Singh,
Assistant Commissioner of Police(HQ)(P),
(R.Cell)(PHQ),
New Delhi-110002

Subject: Regarding recruitment of SI(Ex.) in Delhi Police
Medical Examination thereof.

Sir,

With reference to your letter No.2073/R.Cell/
(PHQ) dated 19.3.93 on the subject aforesaid the medical
examination report in respect of the below mentioned
candidates is shown against their names is enclosed
herewith:-

<u>Names of the candidates</u>	<u>Fit/Unfit.</u>
1 to 13 xxxxxxxxxxxx	
14 . Sh. Parveen Kumar	Unfit.
15 & 16 xxxxxxxxxxxxxxxx	

Yours faithfully,
sd/Dr. P.A. Lamba,
Director-Professor(GNEC)
New Delhi."

8. In this letter, the name of the applicant appears
at serial No.14 and he was declared unfit.

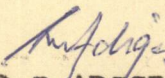
9. On the face of all these documents, it can be
taken and would be credible that the applicant had
~~with~~ the knowledge that he had not been medically
approved because of defective vision. The information
can be gathered from ^{more than one} / source and thus this contention
of the learned counsel cannot be accepted that the
applicant was not given any information.

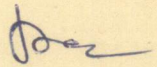
10. Learned counsel also argued that the applicant
may be subjected to further examination but this
argument is an after-thought because no such relief
has been sought in the O.A. nor had it been suggested
in the reports of the medical experts who ultimately
examined the applicant and found the applicant
medically unfit .

11. Under the circumstances, this application
is dismissed. No costs.

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12. The rejoinder , filed by the learned counsel, was not traceable on record though a copy was given to the respondent no.2. Learned counsel for the applicant states that the rejoinder had been filed on 24.9.93 (Filing No,7697 We have taken the rejoinder from respondent no.2 and placed the same on record.)


(S.R.ADIGE)
MEMBER(A)


(J.P.SHARMA)
MEMBER(J)

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