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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 1911 of 1993 6.

New Delhi this the 3rd of March, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. B.N. Dhoundiyal, Member

Shri Rupender Singh
R/o Village Jalalpur (Karira),
P.O. Shikarpur,
Distt. Bulanshahar,
Uttar Pradesh.

...Applicant

By Advocate Mrs. Avnish Ahlawat

Versus

1. Union of India
through Medical Superintendent,
Lok Nayak Jaiprakash Narain Hospital,
New Delhi-110002.

2. Lt. Governor of Delhi
through Commissioner of Police,
Delhi Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi-110002.

...Respondents

By Advocate Shri Surinder Adlakha for respondent No.1. and
Shri O.N. Trishal for respondent No.2.

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Vice-Chairman

The controversy pertains to the recruitment of the applicant as a Constable in the Delhi Police.

2. Separate counter-affidavits have been filed on behalf of respondent Nos. 1 and 2. Counsel for the parties have been heard. We are disposing of this application finally.

3. After successfully going through the other preliminaries for the purpose of recruitment, the applicant was subjected to a medical examination. Dr. Bharat Singh, a Police Surgeon on 08.01.1993 declared that the applicant was unfit. It appears that the tip of right index finger of the applicant was partially amputated due to trauma in childhood. On 22.01.1993 Prof. P. Chandra, Senior Consultant in Orthopaedic Surgery, Professor Emeritus, Orthopaedics, in the All India Institute of Medical Sciences (AIIMS) and former Chief of Orthopaedic Services and Dean of AIIMS

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gave an opinion and also certified that the partial loss of tip of right index finger is not a handicap in any Police activity. He recorded a finding with respect to the applicant that, " he has partial loss of terminal phalanx of right index finger with terminal joint in full function and order. Therefore, he will not lose any function of the index finger needed in the duties of a constable". On 23.01.1993, the Additional Professor in the AIIMS also gave a certificate to the applicant substantially in terms given by Professor P. Chandra. Similar opinions were given to the applicant by Dr. G.S. Shukla, a former Orthopaedic Surgeon in the Ram Manohar Lohia Hospital, Dr. V.N. Gaur, a private Orthopaedic Surgeon, Professor P.R. Mohanty of the Maulana Azad Medical College and Associate with Lok Nayak Jai Prakash Narain Hospital and others.

4. It appears that after the opinion of Dr. Bharat Singh, the applicant was sent to the Lok Nayak Jaiprakash Narain Hospital, New Delhi and it also appears that the Board examined the applicant. We have before us a report of the Medical Superintendent of the Lok Nayak Jaiprakash Narain Hospital dated 8.4.1993 sent to the Deputy Commissioner of Police. This report has been produced before us on a direction given by us to the learned counsel for the respondents. This report merely indicates that the applicant has been examined by the Medical Board in the Lok Nayak Kai Prakash Narain Hospital and he has been declared unfit.

5. Paragraph (k), as contained in the Appendix of the Delhi Police (Appointment & Recruitment) Rules, 1980 immediately following Rule 32¹ inter alia, states that the Medical Officer will reject a recruit for any disease or defect which is likely to render him unfit for the duties of the particular branch of the service in which he is desirous of being enrolled. The note under this subparagraph is that certain points should ^{not be} overlooked. One of the points mentioned under the note is loss

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or deformity of fingers etc. We have read and re-read the Superintendent's report and we find that there is not even a whisper in it that the Board recorded a finding that the alleged deformity in the applicant is likely to render him unfit for the duties of a Constable.

6. In paragraph 4.16 of the O.A. it is averred, and this averment has not been denied in the counter-affidavits filed on behalf of the respondents, that the Medical Board which examined the applicant in the Lok Nayak Jai Prakash Narain Hospital did not comprise of an Orthopaedic Surgeon.

7. After having heard the learned counsel for the parties and after giving due consideration to the facts of this case, we feel that the interest of justice requires that we should direct the respondents to get the applicant examined by a competent Orthopaedic Surgeon in the All India Institute of Medical Sciences. The respondents shall, therefore, make necessary arrangement for the examination of the application in the aforesaid Institute. They shall do so within a period of one month from today.

8. Our attention has also been drawn to the averments made in paragraph 4.19 of the O.A. In this paragraph, instances of the recruitment of persons as Constables who had similar or worse infirmity as that of the applicant, were found medically fit and recruited in the Delhi Police. We have no doubt that the authority concerned, while taking a final decision in the case of the applicant, will bear in mind the averments made in the said paragraph.

9. It goes without saying that if the report of the Orthopaedic Surgeon of the A.I.I.M.S. is in favour of the applicant, the respondents shall consider him medically fit and thereafter issue to him a letter of appointment.

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if there is no other impediment.

10. With these directions, this O.A. is disposed of finally but without any order as to costs.

B.N. Dhoondiyai
(B.N. DHOUNDIYAI)
MEMBER (A)

S.K. Dhaon
(S.K. DHAON)
VICE CHAIRMAN

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