

41

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
NEW DELHI.

Q.A.No.1989 of 1993

New Delhi, this the 16th day of November, 1994.

HON'BLE MR JUSTICE S.K.DHAON, VICE CHAIRMAN  
HON'BLE MR B.N.DHOUNDIYAL, MEMBER(A)

Shri Avinish Kumar  
S/O Shri Budh Singh  
R/O Village & P.C.Mandona  
Distt.Bulandshahr, UP

... ..Petitioner;

(through Mr J.P.Verghese, Advocate).

vs.

1. Commissioner of Police  
Police Headquarters,  
I.P.Estate New Delhi.

2. Head of the Department of  
Orthopaedics  
LNJP Hospital  
New Delhi.

.. ....Respondents.

( Respondent No.1 through Grish Kathapalia, Advocate)  
( Respondent No.2 through Raj Singh, Advocate)

ORDER (oral)

JUSTICE S.K.DHAON, VICE CHAIRMAN

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

2. Under the recruitment rules, the petitioner, <sup>to be</sup> before being issued a letter of appointment was subjected to <sup>ya</sup> medical examination. That was done. The Medical Officer concerned found him unfit. The petitioner availed of the opportunity of preferring an appeal under the rules to the Medical Board. He was, therefore, examined by the Medical Board.
3. This Q.A. was filed on 21.9.1993. In it, a counter-affidavit was filed on behalf of the Commissioner of Police on 17-02-1994. The Head of the Department of Orthopaedics, LNJP Hospital, New Delhi (Respondent No.2) is represented by a
- 57

learned counsel (Shri Raj Singh. On behalf of respondent No.2, a counter-affidavit has been filed. To that affidavit, a photo-copy of the letter dated 8-8-1994 issued to the Medical Board, is annexed. It is stated therein that the Board after examining the petitioner on 20-02-1991, declared him unfit due to loss of terminal phalanx of right finger. However, the Board obtained the opinion of Dr.S.S.Yadav, Head of Orthopaedics Department, LNJP Hospital. The said doctor, in his report dated 20.02.1991 opined:

"Although the candidate has a loss of part of right finger since childhood, and his functional capacity is normal and has no disability. In case this is acceptable then he is fit or otherwise."

4. There is nothing on the record to show us as to what transpired after the receipt of the aforesaid communication dated 8.8.1994, containing therein the afore-quoted opinion of Dr.S.S.Yadav. Some order had to be passed by the Commissioner of Police. It appears that that has not been done.

5. We direct the Commissioner of Police to consider the afore-mentioned communication of the Chairman of the Medical Board and the opinion of Dr.Yadav and pass an appropriate order. If the Commissioner of Police feels that in spite of the opinion of Dr.Yadav the petitioner should not be recruited as a Constable on account of defect in his right finger he shall record reasons. He shall communicate his order to the petitioner within a period of 10 days from the date of passing of the same. The Commissioner of Police shall pass his order within a period of one month from today. The petitioner need not communicate this order to the Commissioner of Police as the same is being passed in the presence

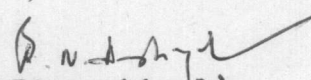
84



13  
:-3-:


of his counsel. It goes without saying that if the petitioner feels aggrieved by the order of the Commissioner, it will be open to him to seek his remedy before <sup>an</sup> appropriate forum.

6. With these directions, the application stands disposed of, leaving the parties to bear their own costs.

  
( B.N. Dhoundiyal )

Member (A)

/sds/

  
( S.K. Dhaon )

Vice Chairman.