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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.830/93

Date of decision: 11.05.1993.

Shri Jagdish Parshad

...Petitioner

Versus

Delhi Administration & Another

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)

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

For the petitioner

Shri Shankar Raju, Counsel.

Judgement
(Hon'ble Mr. I.K. Rasgotra, Member (A))

Heard the learned counsel for the petitioner. The case of the petitioner is that he was working as a Constable in the Delhi Police. He resigned from service voluntarily on 3.8.1990. He applied for re-enlistment to the Delhi Police in terms of Rule 28 of Delhi Police (Appointment and Recruitment) Rules, 1980 (hereinafter referred to as the Rules). He was sent for medical examination including physical endurance test. Since he could not clear in the physical endurance test, he was not offered the appointment. The said information was given to the petitioner vide order dated 21.1.1993. The learned counsel for the petitioner submits that the appointment has been denied to the petitioner as he could not qualify in 400 meters hurdle race in one minute and 30 seconds. There is no provision for hurdle race in the Rules. Such a provision, however, has admittedly been made in the standing orders issued by the Additional Commissioner of Police. He submits that clause 6, Rule 9 of the Rules empowers the Commissioner of Police alone to frame rules under Standing orders for detailed procedure

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to determine physical efficiency etc. The standing orders (page 17 of the paper book) were, however, issued by the Additional Commissioner of Police. The learned counsel, therefore, submitted that these standing orders are in violation of the statutory rules and, therefore, cannot be legally sustained. We see no merit in this argument, as the standing orders are signed by the Additional Commissioner of Police 'for Commissioner of Police'.

2. The second point raised by Shri Shankar Raju, learned counsel is that the Constables who offer for enlistment are not required to qualify in 400 meters hurdle race. Relying on Rule 28 of the Rules the learned counsel submitted that the physical and educational standards required from such personnel as offer for re-enlistment are those which are applicable to the recruits from open market. These physical standards are laid down in Rule-9(e) of the Rules, according to which the petitioner is required only to possess "sound state of health free from defect/defor-mity/disease, vision 6/12 without glasses both eyes, free from colour blindness." Clause-6 of Rule 9 of the Rules admittedly empowers the Commissioner of Police to frame standing orders prescribing detailed procedure to be followed regarding physical measurement, written test and viva voce for regulating the recruitment. But, it does not entitle the Commissioner to frame procedure for physical standard. He, therefore, submits that the provisions made in the standing orders laying down the hurdle race of 400 meters is violative of the statutory provisions in the Rules and, therefore, deserves to be struck down.

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3. We have considered the issues raised by learned Shri Raju carefully. There is no dispute that the petitioner failed to qualify in the 400 meters hurdle race in one minute and 30 seconds, as prescribed in the standing orders. It is also admitted that the Commissioner of Police is empowered to frame standing orders in accordance with clause-6 of Rule-9 of the Rules laying down procedure **for conducting physical efficiency** (emphasis supplied). We have perused the standing orders, a copy of which is placed at page 17 of the paperbook). The detailed procedure prescribes both for re-enlistment of ex-servicemen and ex-members of Police Force and for the direct recruits, physical endurance test, which is a qualifying test. This test includes 400 meters hurdle race to be completed in one minute and 30 seconds. Identical provision is made for the direct recruits also. In our view the provision for physical efficiency test for the Police personnel cannot be faulted. In any case these provisions have been made in accordance with Rule 9 for determining the physical efficiency. We are not impressed by the argument that provision for qualifying in the hurdle race cannot be part of physical efficiency test. Physical efficiency is an inclusive term and it is for the Commissioner of Police to lay down the methods to test such physical efficiency. The provision made in the standing orders in our view is in consonance with Rule-9 of the Rules and, therefore, cannot be considered as violative of the provisions of the Rules. It supplements the Rules. We also observe that the petitioner has come to the Tribunal only after he failed in the physical endurance test. It is, therefore, not open to him to challenge the rule to which he had subjected himself willingly.

4. In the above facts and circumstances, we are of the opinion that the question of interference in a case where the petitioner has not measured up to the physical standard laid down by the Commissioner of Police in accordance with the Rules does not arise. There is no violation of the Rules involved. Accordingly there is no merit in proceeding further with this Application. The same is accordingly dismissed at the admission stage itself.

J.P. Sharma
(J.P. SHARMA)
MEMBER(J)

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

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