

**Central Administrative Tribunal, Lucknow Bench,
Lucknow**

Original Application No. 103/2006

This the 11th day of January, 2010

Hon'ble Ms. Sadhna Srivastava, Member-J

Hon'ble Dr. A.K. Mishra, Member-A

Vikas Mishra, Aged about 22 years, S/o Sri Gauri Shanker Mishra, R/o E-51/86, Rajajipuram, District Lucknow.

.....Applicant

By Advocate: Sri L.K. Pathak

Versus

1. Union of India through the Secretary, Department of Posts & Telegraphs, Ministry of Communication, Government of India, New Delhi.
2. Chief Post Master General, U.P. Circle, Lucknow.
3. Senior Superintendent of Post Offices, Lucknow region, Lucknow.
4. Sr. Superintendent of Post Offices, Faizabad Division, Faizabad.

.....Respondents

By Advocate: Sri S.P. Singh for Sri K.K. Shukla

ORDER (Oral)

By Dr. A.K. Mishra, Member-A

This application has been made challenging the letter dated 11.2.2006 of respondent no.4 addressed to Superintendent of ENT department of King George Medical College (KGMC), Lucknow requesting for medical examination of the applicant to ascertain the state of his disability, namely deafness for the purpose of giving him appointment as Postal Assistant under disability quota. He has prayed for setting aside this letter and directing the Opposite parties to permit him to join on the post of Postal Assistant without any further delay.

2. The applicant while completing B.Sc course came to suffer from the problem of deafness. He obtained a certificate from the Chief Medical officer (CMO), Lucknow on 30.7.2003 stating that he was suffering from hearing



loss amounting to 95% decibels of deafness. On coming to know from the notification dated 6.2.2004 that some posts of Postal Assistant have been reserved for physically handicapped persons, he applied for appointment under disability quota. On 19.5.2005, a pseudonymous complaint was made against him to respondent no.2 and he was asked to submit his explanation in respect of the allegations, which he did by filing an affidavit on 9.6.2005. He was intimated on 26.7.2005 by the respondent no.2 about his selection on the post of Postal Assistant and was required to submit all relevant documents before the respondent no.4 which included the medical certificate issued by the CMO, Lucknow on 30.7.2003. On 8.8.2005, the CMO, Lucknow was asked in a letter issued by the respondent no.4 for medical examination of the applicant for appointment in the cadre of Postal Assistant and a medical fitness certificate was also issued by the CMO, Lucknow. However, during this period, another complaint was received suggesting that the physical disability claimed by the applicant was fake; therefore, the respondent no.4 issued impugned letter to the Head of the Department of ENT, KGMC, Lucknow for further check up about his disability. He has challenged this letter as uncalled for. However, according to him, he went to the ENT department of KGMC, but came to know that the expert who is supposed to conduct the examination was not in a position since 2000.

3. He filed O.A. no. 103 of 2006 before this Tribunal in which a direction was given on 3.3.2006 to ascertain the correctness of the disability certificate and if it was in order, the applicant should be given appointment.

4. The learned counsel for the respondents submits that the respondent no.4 thereafter asked the applicant in his letter dated 11.1.2007 to present himself before the CMO, Lucknow for fresh verification of his disability condition. The CMO, Lucknow also requested the applicant in this letter dated 10.1.2007 to present himself for fresh verification of his disability. In this letter, he has made reference to the communication received from the


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respondent no.4 on 3.7.2006, 10.8.2006, 23.8.2006 and 10.11.2006. The learned counsel for the respondents submits that even in spite of specific direction from the CMO, Lucknow, the applicant has not presented himself for fresh verification of his disability condition.

5. At the time of hearing, the learned counsel for the applicant submits that the applicant does not have any hesitation in presenting himself for any medical examination of his disability condition and requested that a direction may be issued to the CMO, Lucknow to fix a date for such verification within a specified time frame.

6. In the circumstances, we direct that a fresh verification about the disability condition of the applicant (his deafness) may be conducted by a Medical Board to be constituted by CMO, Lucknow in which an ENT Specialist must be included as a member. Further, a representative of the Postal Department particularly of the respondent no.4 may also remain present at the time of verification. The verification by the Medical Board should be completed within a period of two months from the date of supply of a copy of this order. If the claim of disability made by the applicant is found to be genuine and if on that basis, he is entitled to get a job in the Government, his appointment as Postal Assistant should be made within one month thereafter.

7. The O.A. is disposed of with these directions. No costs.


(Dr. A.K. Mishra)
Member-A


(Ms. Sadhna Srivastava)
Member-J

Girish/-