

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

(2)

NEW BOMBAY BENCH

O.A. No. 233/92  
T.A. No.

198

DATE OF DECISION 14th JUL 1992

NARESH HOTCHAND GURBANI PetitionerMR. MOHAN SUDAME, Advocate for the Petitioner(s)

Versus

THE UNION OF INDIA & ors. RespondentMR. S.K.SANYAL Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. JUSTICE S.K.DHAON, Vice-Chairman

The Hon'ble ~~XXX~~ USHA SAVARA, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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*Sud*  
(S.K.DHAON)  
Vice-Chairman

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, CAMP AT NAGPUR.

ORIGINAL APPLICATION NO.233/92.

Naresh Hotchand Gurbani  
R/o-851, Vaishali Nagar,  
Nagpur - 440 017.

.. Applicant.

Vs.

Union of India & 3 Others.

.. Respondents.

Coram : Hon'ble Shri Justice S.K. Dhaon, Vice Chairman.  
Hon'ble Ms. Usha Savara, Member (A).

Appearances:

Mr. Mohan Sudame, Adv.  
for the Applicant.

Mr. S.K. Sanyal, Adv.  
for the Respondents.

ORAL JUDGMENT :

Dated : 14.7.1992.

I Per : Hon'ble Shri S.K. Dhaon, Vice Chairman I

The Union Public Service Commission conducted the Engineering Services examinations in the year 1990. The applicant appeared in the said examination and secured 35th position in the Civil Engineering Category. As required by the Rules, he was medically examined at the Central Hospital, New Delhi, and declared medically unfit. The Appellate Board also found him medically unfit. Thereafter a communication was issued that on account of being found medically unfit, he could not be given an appointment. Hence this application.

2. A counter affidavit has been filed. In paragraph 5 of this affidavit, the material averments are these. On 20th April 1991, the applicant was medically examined at Central Hospital, New Delhi. He was declared unfit for categories I-VII on account of "IRREGULAR PULSE".

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O.A.233/92.

By a communication dated 21st May 1991, the applicant was advised to prefer an appeal against the decision of First Medical Board, which he did. The Appellate Medical Board examined the applicant on 2.8.1991 at the Central Hospital, New Delhi. The board found him unfit; "SIGNIFICANT SUPRA VENTRICULAR EXTRA SYSTOLAS". The opinion of the Second Board was conveyed to the applicant by a letter dated 27th August 1991. The same is being assailed in this application.

3. According to the Counsel for the applicant, Rule 11 of the Relevant Rules, which reads: "when any defect is found it must be noted in the Certificate and the medical examiner should state his opinion whether or not, it is likely to interfere with the efficient performance of the duties which will be required of the candidate" has not been observed in his case. The respondents have produced before us, the photostat copy of the certificate. We are satisfied, that the Medical Board recorded its opinion in conformity with the above quoted rule. Moreover, the substance of the Rule has been followed by the Appellate Board in so far as it gave its opinion of the nature of the disease from which the applicant suffered. We, therefore, do not find any substance in this submission.

8/17 4. No <sup>other</sup> ~~further~~ argument has been advanced.

9 5. The application is dismissed <sup>but</sup> with no order as to costs.

*U. Savara*  
14.7.92.  
( Ms. Usha Savara )  
Member (A)•

*S.K. Dhaon*  
( Shri S.K. Dhaon )  
Vice Chairman.