

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.405/94

Date of order: 15.4.1996

Kamlesh Kumar Sharma : Applicant

Vs.

Union of India & Ors. : Respondents

Applicant present in person.

Mr.Manish Bhandari : Counsel for respondents.

CORAM:

Hon'ble Mr.O.P.Sharma, Administrative Member.

Hon'ble Mr.Ratan Prakash, Judicial Member.

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri Kamlesh Kumar Sharma, has prayed that Annxs.A1 dated 20.5.94 and A3 dated 20.7.94 by which he was declared medically unfit for Engineering Services may be quashed and the respondents may be directed to recommend the case of the applicant for appointment in the Engineering Service for which the applicant has given his preference. He has further prayed that the respondents may be directed not to deny appointment to the applicant only on the ground that he was declared medically unfit. There is a still further prayer that negligible variation in the blood pressure of the applicant may be directed to be ignored and the instructions at Annx.A4 which prescribe strict adherence to the norms of blood pressure examination for appointment in Engineering Services may be declared as arbitrary and unreasonable. Finally, he was prayed that the respondents may be directed to arrange a special medical examination for the applicant by the Doctors of the All India Institute of Medical Science, New Delhi or by the Doctors of the SMS Medical College, Jaipur or by any other reputed Institutes.

2. The case of the applicant is that he being holder of B.E qualification in Electronics was declared successful in

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the Combined Engineering Services Examination, 1993 and his name finds place at Sl.No.1 in the list of successful candidates in the category of Electronics and Telecommunication Engineering (Annx.A4). After he was declared successful, he was asked to appear before a Medical Board for his medical examination but was declared unfit vide communication dated 20.5.94 (Annx.A1). The applicant was not satisfied with the medical examination by which he was declared unfit therefore, he consulted one Dr.V.D.Sharma, one of the most reputed Physicians of Jaipur City who after examining him certified that the applicant is fit for Engineering Services as his blood pressure ranged within the normal limits. Dr.V.D.Sharma's report dated 2.6.94 is at Annx.A5. The applicant, therefore, submitted an appeal against the decision of the medical examination by which he was declared unfit. Thereafter, he was examined at the Railway Hospital in Bombay but was once again declared as unfit. His grievance is that the authorities at the Hospital at Bombay did not examine him after giving him the requisite rests and after following the prescribed procedure. He claims to have placed on record the prescribed procedure at Annx.A6 but there is no Annx.A6 on record. He has sought production of the blood pressure report of the applicant as per the readings taken at the Jagjewan Ram Hospital at Bombay where his medical examination was conducted on 7.7.94.

3. Further, according to the applicant, he had also appeared in the Civil Services (Main) Examination, 1993 and after appearing before the Interview Board, he was medically examined by the Medical Board at Ram Manohar Lohia Hospital, New Delhi and during this examination, he was declared medically fit. His grounds for assailing the result of the medical examinations conducted on behalf of the Railway

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authorities are that he was declared fit twice, once by the Doctors at Jaipur and again by the Doctors at Ram Manohar Lohia Hospital, New Delhi. The medical board which examined him at Jagjeevan Ram Hospital did not follow the prescribed procedure in that it did not record his blood pressure after giving him full rest. In accordance with the general policy of the government even a blind and disabled person can get appointment and therefore, there is no reason why a person suffering from hypertension cannot be given appointment when the hypertension is only slight and is a negligible disorder. His further grievance is that there is all the possibility that a candidate going for a medical examination might feel some excitement and therefore, the reading of the blood pressure may be not normal. The respondents did not conduct the medical examination fairly and therefore, they may be directed to get a fresh medical examination conducted at a reputed institution. He has a right to livelihood guaranteed by the Constitution of India.

4. The respondents in their reply have stated that the first Medical Board declared the applicant as unfit for appointment for the reasons given in Annexures at pages 37 to 42 of the reply in which the applicant has been shown as having labile hypertension, reading being 170/108. After the applicant preferred an appeal against the result of the first medical examination, the Appellate Medical Board was arranged at Western Railway Hospital, (Jagjeevan Ram Hospital) Bombay on 11.7.94 which examined the applicant and found him unfit for all categories on account of hypertension. The result of the second Medical Board was communicated to the applicant vide letter dated 20.7.94 (Annx.A3). Under the Rules for Engineering Services Examinations, no appeal lies against the decision of the Appellate Medical Board which had declared him

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unfit for all services. Since he had been examined as per the rules of the examination and all the procedures had been followed, no injustice had been done to the applicant. The Railway administration is not concerned with a certificate issued by a private Medical Practitioner. They have denied that there was any irregularity in following the prescribed procedure while examining blood pressure of the applicant.

5. During the arguments, the applicant stated that not only had he been declared as medically fit at the medical examination conducted at Pam Manohar Lohia Hospital, New Delhi in consequence of his having passed the Civil Services (Main) Examination but had also been declared medically fit, after he had appeared in the Rajasthan Administrative Service Examination, in the medical examination conducted in SMS Hospital, Jaipur. Therefore, according to him, there was no reason for the first and the second Medical Boards which conducted examination on behalf of the Railway Board to deny him appointment.

6. The learned counsel for the respondents stated that the two medical reports, one of the original medical board and the other of the appellate medical Board which conducted the applicant's medical examination (the latter is at page 30 to 35 of the reply) show that applicant suffered from hypertension and it was higher than the normal range prescribed, which was 140/90 for Engineering Services. He added that no documents had been presented regarding the examinations conducted at Pam Manohar Lohia Hospital, New Delhi or at the SMS Hospital, Jaipur and in any case these could not be the basis for giving appointment to the applicant in the Engineering Services for which the Railway Board has to have medical examination conducted in accordance with its own procedure and by authorities nominated by it. He added that

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there is nothing improper or irregular in the procedure prescribed for conducting the medical examinations.

7. We have heard the applicant and the learned counsel for the respondents and have gone through the material on record. Annexure at pages 37 to 42 of the reply contains the details of the first medical examination of the applicant after he was selected for the Engineering Services. This test shows that his blood pressure reading was 170/108. On his appeal a second medical examination by the Appellate Board was conducted at the Jagjeevan Ram Hospital, Bombay and details of its examination are at pages 30 to 35 annexed to the reply of the respondents. This second report shows that his blood Pressure reading was 180/100. He was, therefore, declared for unfit for appointment to the Engineering Services. The normal range prescribed for blood pressure as seen from Annx.P1 is 140/90. In the procedure for Engineering Services Examination 1993 at which the applicant had appeared, Appendix II para 8 thereof provides that normal range of blood pressure for a successful candidate should be 140/90. The allegation that the medical examination of the applicant was not conducted in accordance with the prescribed procedure is vague. The applicant himself admits that he was admitted as an indoor person in Jagjeevan Ram Hospital before his second medical examination was conducted. The averments that the applicant had been declared successful at the medical examinations conducted at Ram Manohar Lohia Hospital, New Delhi and at SMS Hospital, Jaipur are not substantiated by any document. In any case since the applicant has sought appointment in one of the Engineering Services, the Ministry incharge has to have the medical examination conducted by the authorities specified by it. We do not see any irregularity or infirmity in the procedure prescribed or the parameters laid down for treating

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a particular blood pressure reading as normal. In any case, it is not for this Tribunal to set the medical standards to be prescribed for candidates seeking appointment to the Engineering Services. The result of the Appellate Medical Board is final and therefore, there is no scope for yet another Medical Board being appointed because in that case the process would be endless. We have carefully considered all other averments of the applicant including his oral argument and we find no merit therein.

8. The application is, therefore, dismissed with no order as to costs.



(Ratan Prakash)

Member(Judl.)



(O.P. Sharma)

Member(Adm.)