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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

FA No. 29/1996 (OA No. 405/94)

Date of order 9.8.96

Kamlesh Kumar Sharma .. Applicant

Versus

Union of India and Others .. Respondents

ORDER

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

In this Review Application under Rule 17 of the Central Administrative Tribunal (Procedure) Rules, Shri Kamlesh Kumar Sharma has prayed that the order dated 15-4-96 passed in OA No. 405/94, Kamlesh Kumar Sharma Vs Union of India and Ors., may be reviewed and the aforesaid OA may be decided afresh after hearing the counsel for the applicant.

2. The OA No. 405/94 was basically against the applicant being declared as medically unfit for appointment to Engineering Services for which he was selected as a result of the Combined Engineering Services Examination, 1993, on the ground that his blood pressure was higher than the standards prescribed for appointment in the Engineering Services. The applicant after being declared successful in the aforesaid examination, was asked by the Ministry of Railways to appear before the Medical Board for his medical examination. The Medical Board had declared the applicant as unfit for appointment on the ground that his blood pressure was higher than the standards prescribed for appointment in Engineering Services. On his filing appeal, he was again examined by a Medical Board at the Jagjeewan Ram Hospital, Bombay, run by the Railways. The said Medical Board

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also found the applicant as having higher blood pressure than the standards prescribed. He was accordingly declared as medically unfit for appointment in the Engineering Services. He had cited the medical report from a local doctor, the result of his medical examination by Ram Manohar Lohia Hospital at New Delhi in connection with his appointment to the Civil Services and the result of his examination at the S.M.S. Hospital, Jaipur in connection with his appointment in the Rajasthan Administrative Services. The Tribunal had, however, held in the order passed on 15-4-1996 that the results of the medical examinations other than those prescribed were not relevant for judging the medical fitness of the applicant. Accordingly the application was dismissed.

3. In the Review Application, the applicant has stated that in the OA the applicant had sought production of blood pressure report of the applicant as per readings taken at Jagjewan Ram Hospital, Bombay. During the medical examination blood pressure chart was prepared and blood pressure of the applicant was measured approximately 14 times after certain gaps. Out of the 14 times it was measured, the blood pressure of the applicant was found to be normal for about 9 times. The document ^{which} establishes that the applicant was declared medically fit for Rajasthan Administrative Services by the S.M.S. Hospital, Jaipur, an order dated 6-1-96, has now been submitted by the applicant alongwith the Review Application and is marked as Ann.A1. As regards Ann.A1, the applicant's case is that it was not available with the applicant at the time of oral arguments because it was in the file of the counsel who was arguing some other

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case and, therefore, it could not be filed alongwith the OA or produced at the time of hearing. The fact that the counsel of the applicant was busy arguing some other case and therefore could not be present in the Tribunal to argue the applicant's case before the Tribunal has caused prejudice to the applicant. The applicant has, therefore, sought a fresh hearing by his counsel as the matter relates to the whole career of the applicant.

4. We have gone through the Review Application and the other material on record. We are of the view that the Review Application can be disposed of without issuing notices of hearing, and by circulation.

5. In the Original Application the applicant had prayed that "the respondents may be asked to brought about the blood pressure report of the applicant taken by the Medical Board on 7-7-94 at the Jagjeewan Ram Hospital, Bombay Central, Bombay". Two medical reports were filed by the respondents as annexures to their reply. One of these was the report of the Medical Board constituted in the first instance and the second was the report of the Medical Board constituted at the Jagjeewan Ram Hospital, Bombay on the applicant's filing appeal against the decision of the first Medical Board. In both of these reports blood pressure readings of the applicant have been recorded. Now in the Review Application he has stated that he had sought production of blood pressure reports of the applicant as per the several readings thereof taken at the Jagjeewan Ram Hospital at Bombay. Infact, however, this detailed description of what the applicant had sought to be produced was not given in the OA. It is now that the applicant has sought to improve upon his averments in the OA. As regards the report of

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S.M.S. Hospital, Jaipur where he was reportedly examined in connection with his selection for State Administrative Services, it has not been produced even now, with the Review Application. What has been produced with the Review Application as Ann.A1 is the order dated 6-1-96 passed by the Rajasthan Government appointing the applicant to one of the posts in scale Rs. 2000-3500 in the Rajasthan Government. It is perhaps by implication that the applicant seeks to suggest that this appointment was given to him only after he was declared medically fit. We do not know what were the standards prescribed for medical examination of the applicant for appointment to Administrative Services under the Govt. of Rajasthan and the applicant has also not produced any medical report to show that he had been declared medically fit by a particular standard. In any case, since the applicant has sought appointment to one of the Engineering Services under the Government of India, he was required to pass the medical examination in accordance with the standards laid down for such Engineering Services.

6. We do not know if the standards for the Engineering Services and for the Central Civil Services are the same as far as medical examination is concerned. However, the applicant had not produced any document with the OA also to show that he had been declared medically fit in the medical examination conducted for the purpose of appointment to Central Civil Services etc.

7. The case was argued by the applicant himself before the Tribunal. At no stage had he made any prayer during the arguments that his counsel was busy elsewhere and therefore, adjournment may be granted to enable the counsel to argue the case on his behalf or that he wanted

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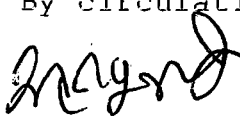
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time to produce any document to support his case.

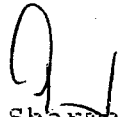
8. For all the above reasons, we see no merit in this Review Application. There is no error apparent on the face of the record nor has the applicant produced any document which is crucial to his case and which could not be produced earlier when the OA was decided despite best efforts or due diligence by the applicant. This Review Application is not maintainable in view of the provisions of Order XXXVII Rule 1 of the Code of Civil Procedure.

9. The Review Application is accordingly dismissed.

By circulation.


(Ratan Prakash)

Judicial Member


(O.P. Sharma)

Administrative Member