

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**C.P. No.537/2017 In
O.A No.1820/2015**

**Reserved On:09.02.2018
Pronounced on:09.03.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

Bhupender Kumar
S/o Shri Manohar Lal Sharma
R/o V&PO Talwana, Tehsil Behror,
Dist. Alwar, Rajasthan-301703
Aged about 30 years ..Petitioner
(By Advocate: Shri Ajesh Luthra)

Versus

1. Shri Amulya Patnaik
Commissioner of Police PHQ,
MSO Building,
IP Estate, New Delhi.
2. Dr. Joy N. Tirkey
Deputy Commissioner of Police
(Recruitment Cell)
New Police Lines,
Kingsway Camp, Delhi.
3. Dr. Joy N. Tirkey
Additional Deputy Commissioner of Police
(Recruitment Cell) New Police Lines,
Kingsway Camp,
Delhi. ...Respondents

(By Advocate: Ms. Sangita Rai)

ORDER

By Ms. Nita Chowdhury, Member (A)

Heard Shri Ajesh Luthra, learned counsel for the petitioner,
Ms. Sangita Rai, learned counsel for the respondents and perused
the pleadings.

2. The petitioner filed the Contempt Petition (CP) alleging violation of the orders of this Tribunal in OA No.1820/2015 and connected cases dated 24.01.2017 and the operative part of the same reads as under:-

“8. The crucial question in these cases is as to whether the applicants were considered as to their medical fitness vis-à-vis the post in question, i.e., keeping in view the functional requirements of the post. The medical certificates do not inspire conviction that functional ability of the candidates was properly considered and reported upon.

9. In this light of the matter, we are of the view that the OAs deserve to partly succeed. We are not directing a third medical examination. However, the appellate medical examination at Aruna Asaf Ali Govt. Hospital, Delhi should be held afresh and the candidates considered also keeping in view the functional requirements of the post in question. This shall be done within one month from the date of receipt of a copy of this Order. Consequences, either way, will follow”.

3. A careful examination of the order of this Tribunal in OA No.1820/2015 clearly indicates that only direction given was to hold a third medical examination at Aruna Asaf Ali Govt. Hospital, Delhi should be held afresh and the candidates considered also keeping in view the functional requirements of the post in question. The respondents have complied with the aforesaid directions and held afresh Medical in Aruna Asaf Ali Govt. Hospital, Delhi and he was declared unfit by the Appellate Medical Board.

4. The Hon'ble Apex Court in the case of **ICAR & Anr. Vs. Smt. Shashi Gupta**, AIR 1994 SC 1241 on the point of Appellate Medical Board has held as under:

“We do not agree with the reasoning and the conclusions reached by the tribunal. We are of the view that once the medical board and the Appellate Medical Board found the respondent medically unfit for the post of Scientist Grade S the tribunal had no jurisdiction whatsoever to have got over the medical opinions and directed her appointment to the Service. The Tribunal out-stepped its jurisdiction and acted with an utter perversity. Medical fitness is the sine qua non for appointment to public services. It is the inherent right of an employer to be satisfied about the medical fitness of a person before offering employment to him/her.”

5. In the circumstances and aforesaid reasons, we do not find any merit in the CP and, accordingly, the same is dismissed and the notices are discharged. No costs.

(NITA CHOWDHURY)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

RKS