

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.1335/2015

New Delhi this the 17th day of March, 2017.

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Sujit Kumar Singh, Age 36 (Group – A)
S/o Shri Dineshwan Singh
Flat No. 790, Pocket-2,
Om Apartment, Sector-14,
Dwarka, New Delhi-110078

- Applicant

(By Advocate: Shri A.K. Mishra)

VERSUS

1. Director General of Civil Aviation,
Opposite Safdarjung Airport,
New Delhi-110003
2. Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi-110069
3. Ministry of Civil Aviation (MOCA)
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi-110003

- Respondents

(By Advocate: Dr. Ch. Shamsuddin Khan)

O R D E R (ORAL)

Mr. K.N. Shrivastava, Member (A):

The applicant, through the medium of this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985, has prayed for the following reliefs:

“(i) set aside the order dated 11.07.2014 and direct the respondent to appoint the applicant on the post of Assistant Director, Air Safety;

(ii) direct the Respondent to transmit all the records before this Hon’ble Tribunal;

(iii) grant the costs of this O.A. in favour of the applicant;

(iv) grant any other relief(s) as this Hon’ble Tribunal deem fit and proper in the ends of justice.”

2. The brief facts of this case are as under.

2.1 Pursuant to the Union Public Service Commission (UPSC) advertisement No.14 (Annexure A-2), the applicant applied for the post of Assistant Director (Air Safety) in the office of Director General Civil Aviation (DGCA), Ministry of Civil Aviation. On 14.02.2012, interview for the post was conducted by the UPSC and the applicant was selected for the post. A communication to this effect was sent to the applicant by the UPSC vide Annexure A-3 letter of February, 2012. Thereafter, the DGCA sent appointment letter dated 18.04.2012 to the applicant (Annexure A-4).

2.2 The DGCA-respondent No.1 vide Annexure A-5 letter of June, 2012 wrote to the Chief Medical Officer/Civil Surgeon of Dr. Ram Manohar Lohia (Dr. R.M.L.) Hospital for conduct of medical examination of the applicant, pursuant to which the Hospital carried out the medical examination of the applicant on 27.08.2012. On the basis of the medical report received from Dr. R.M.L. hospital, respondent no.1 vide Annexure A-6 letter dated 22.11.2012 informed the applicant as under:

“To

Shri Sujit Kumar Singh
#790, Sector-14,
OM Apartments, Pocket-2,
Dwarka, New Delhi-110075

Subject:- Medical Examination by the Central Standing Medical Board, Dr. R.M.L. Hospital, New Delhi for appointment to the post of Assistant Director of Air Safety.

Sir,

In response to this office letter of even No. dated 23.08.2012, the Central Standing Medical Board, RML Hospital carried out your Medical Examination on 27.08.2012 for appointment to the post of Asstt. Director of Air Safety.

2. The Central Standing Medical Board, RML Hospital vide their letter No.13-10-2012-CSMB/379 dated 23.10.2012 has forwarded the report of the medical examination and in their report they have declared you unfit for the post o account of '**high grade colour vision defect**'.

3. You may prefer an appeal to this office in support of your case with the requisite evidence within one month from the date of issue of this letter. No appeal shall be allowed after expiry of the period.”

2.3 On 08.02.2012 the applicant submitted a representation to respondent no.1 stating therein that there might be an error on the part of the Medical Examining Authority in having declared the applicant suffering with 'high grade colour vision defect'. After the receipt of the said representation, respondent no.1 wrote to the Chairman, Appellate Medical Board, Safdarjung Hosptial vide Annexure A-9 letter dated 07.03.2014, requesting therein that an Appellate Medical Board may be constituted and the applicant may be medically re-examined.

2.4 Apparently, the medical examination of the applicant was conducted on 18.02.2013 itself by the Central Standing Medical Board (CSMB), Safdarjung Hospital and vide its letter No.6-2/09-CSMB dated 03.07.2014, the CSMB, Safdarjung Hospital informed respondent no.1 that the Ophthalmology Board had medically examined the applicant on 18.02.2013 and has found him 'unfit' for the technical post. On the basis of the said communication, the respondent No.1 vide impugned Annexure A-1 letter dated 11.07.2014, informed the applicant that the Ophthalmology Board of CSMB, Safdarjung Hospital has declared him medically unfit for the technical post. The said Annexure A-1 letter also informed the applicant that due to his having been declared as medically unfit, his candidature for appointment to the post of Assistant Director (Air Safety) stood cancelled.

2.5 Aggrieved by the Annexure A-1 communication dated 11.07.2014, the applicant has filed the instant OA.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicant thereafter filed his rejoinder. On completion of the pleadings, the case was taken up for hearing the arguments of the parties on 13.07.2017. Arguments of Shri A.K. Mishra, learned counsel for the applicant and Dr. Ch. Shamsuddin Khan, learned counsel for the respondents were heard.

4. Learned counsel for the applicant submitted that the applicant was earlier selected for the post of Aeronautical Officer in the DGCA, but due to Safdarjung Hospital declaring him medically unfit he could not secure that job. It was also submitted that the Ophthalmology Board of Safdarjung Hospital (Appellate Medical Board) did not carry out the medical examination of the applicant on 18.02.2013 and as a matter of fact, the report of the Safdarjung Hospital dated 18.02.2013 was based on an earlier medical report of Dr. R.M.L. hospital dated 04.10.2011 which was prepared in connection with the medical-examination of the applicant by the ibid hospital when the applicant had qualified for the post of Aeronautical Officer. It was vehemently argued by the learned counsel that the post of Assistant Director is not a technical post and as such the 'high grade color vision defect' of the applicant would not come in the way of his performing the duties of Assistant Director (Air Safety).

5. Per contra, the learned counsel for the respondents submitted that the post of Assistant Director (Air Safety) is a technical post whose nature of duties are indicated at Annexure R-2. Dr. Chaudhary further submitted that the applicant was earlier selected for another technical post of Aeronautical Officer in the DGCA but his candidature was cancelled on account of the same medical disqualification. Concluding his arguments, Dr. Chaudhary stated that the candidature of the applicant for the post

of Assistant Director (Air Safety) has been cancelled purely on medical grounds.

6. We have considered the arguments of the learned counsel for the parties and have also perused the pleadings and documents annexed thereto. From the medical reports available on the record, it is quite clear that the applicant is suffering with 'high grade color defect'. For this medical disability, his candidature for the post of Aeronautical Officer in the DGCA was cancelled earlier. As regards the nature of duties of the post of Assistant Director (Air Safety), the respondents have given the details at Annexure R-2, which are reproduced below:

"NATURE OF DUTIES
ASSISTANT DIRECTOR/SENIOR AIR SAFETY OFFICER

Investigate or assist in investigation of aircraft accidents domestic and foreign registered aircraft in India and Indian registered aircraft abroad, incidents, precautionary landings, forced landings, air misses and other potential hazardous situation arising in the air operation and to compile the report thereof and to carry out the analytical analysis of the happenings to promote air safety, prepare statistics etc. Accident/Incident prevention work, Safety audit of airlines/operators, Aerodrome Inspection, Cabin Crew Safety, Safety oversight activities."

7. From the perusal of the nature of duties of the post of Assistant Director (Air Safety), we are quite convinced that it is a technical post. Based on the medical reports on record, we are also convinced that the applicant is not medically fit to discharge the duties of the post of Assistant Director (Air Safety).

8. We are not at all convinced with the argument put-forth on behalf of the applicant that the applicant was never subjected to medical examination by the Ophthalmology Board (Appellate Medical Board) of Safdarjung hospital on 18.02.2013. On the contrary, the letter of the CSMB, Safdarjung hospital dated 03.07.2014 confirms that medical examination of the applicant was indeed conducted on 18.02.2013, contents of which have been communicated by the respondent No.1 to the applicant vide the impugned Annexure A-1 letter. We have no reason to disbelieve the contents of Annexure A-1 letter. The applicant has not alleged any bias or malice against any one in regard to his medical examination conducted on 18.02.2013 by the Ophthalmology Board.

9. In the conspectus of the discussions in the foregoing paras, we do not find any merit in the OA. The OA is accordingly dismissed.

10. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

‘San.’