

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2295/2016

Reserved on : 18.12.2017.

Pronounced on : 20.12.2017.

Hon'ble Mr. Raj Vir Sharma, Member (J)

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. Ashish Dabas, 26 years
Designation : Constable, Group-C
S/o Sh. Ved Prakash,
R/o H.No. 102, V.P.O. Kanjhawala,
Delhi-81.

.... Applicant

(through Ms. Charu Nagpal for Sh. Dharam Raj Ohlan, Advocate)

Versus

1. Govt. of NCT of Delhi
(through Chief Secretary)
Delhi Secretariat,
I.P. Estate, New Delhi.
2. Department of Transport,
Govt. of NCT of Delhi
(Through its Secretary)
3. Delhi Subordinate Services Selection
Board (through its Chairman)
FC-18, Institutional Area, Karkardooma,
Delhi.

..... Respondents

(through Ms. Alka Sharma, Advocate)

O R D E R

Ms. Praveen Mahajan, Member (A)

The present O.A. has been filed against the order dated 15.06.2016 passed by respondent No. 3 wherein the height of the

applicant has been found to be less than the required height of 170 cms. The applicant, who applied for the post of Head Constable in the department of respondent No.2, had cleared the written examination. He states that in the physical standard test, his height has been found to be 169.9 cms. against the required height of 170 cms. due to which he has been declared as unqualified. He states that his actual height is 170.3 cms. He further states that though he protested to the measuring officer stating this fact, he was informed that his height being at the border line, he should get it checked through court. He approached the Government Civil Hospital, Bahadurgarh, District Jhajjar, Haryana and got himself measured by Medical Officer on 29.06.2016. The Medical Officer issued a certificate dated 29.06.2016 measuring the applicant's height as 170.3 cms. (Annexure-P3). The applicant states that similar relief has been granted to many others by CAT and requests that height measurement result, of the government hospital, be treated as final for the purpose of his selection. Alternatively, another individual agency/government hospital could be directed to re-measure the height of the applicant.

2. In the counter, the DSSSB submits that they have a fair and transparent system for conducting physical endurance tests. The same system was followed by DSSSB for the post of Head Constable, Post Code-43/13, Transport Department, Government of NCT of

Delhi. The entire process was videographed for ensuring objectivity and fairness. The videographic evidence enables the evaluators/board to check/recheck any claim(s)/objection(s) raised by the candidate before arriving at final conclusion. The candidates found to be marginally short of prescribed height, were measured more than once for their satisfaction and to ensure precision in measurement. This work had been outsourced to the Directorate of Education, Govt. of NCT, Delhi, who had employed different teams of experts i.e. Trained Physical Education Teachers and staff etc. for various activities and hence there is no possibility of favouring or bias towards any candidate. The applicant's height was measured as 169.9 cms. i.e. less than the prescribed height. The Evaluation Board collected the records from different teams employed to conduct the event and evaluated the candidates for qualification/disqualification in the PET strictly on the basis of these records. A copy of such evaluation sheet duly signed by the Members is at Annexure-I.

3. The respondents have relied upon the judgment of Hon'ble High Court of Delhi in the case of **Umesh Chakravarti Vs. Union of India**, 2000(3) ATJ 549 wherein it was held that once the expertise and experience of the medical advisor is not in question, his report can also be not allowed to question. Hence, they state, that the prayer of the applicant does not deserve any consideration.

4. In the rejoinder, the applicant has stated that the respondents have failed to put the alleged videography on record, in the absence of which, their contention cannot be accepted. He further states that his height is 170.3 cms. and the same stands confirmed by the findings of the Medical Officer of Government Civil Hospital on 29.06.2016. The applicant submits that the relied upon judgment is not applicable in his case, since there the medical reports were in question, whereas in his case, it is the height measurement which is in dispute.

4. We have heard both the learned counsel and perused the record. The applicant seeks a direction that his height be measured by an independent agency/Govt. Hospital to re-measure his height. He claims his height as 170.3 cms. as against 169.9 cms. evaluated by the respondents. He alleges that despite his protests, the Measuring Officer advised him that he should apply to the Court since his case is a border line case. In support of his contention, the applicant has also placed on record the certificate dated 29.06.2016 of the Medical Officer of the Government Civil Hospital, Bahadurgarh, District Jhajjar, Haryana. He has placed reliance on the judgment of CAT, Principal Bench in **OA-2142/2016** (Naveen Dahiya & Ors. Vs. GNCTD & Ors.) dated 16.09.2016.

5. We observe that the height measurement of the applicant was found marginally low by the respondents in the physical test. The medical certificate of the Govt. Hospital has confirmed the applicant's contention that his height is as per the requisite norms. To rule out a possibility of any inadvertent error, we are of the opinion that the respondents should examine the applicant's height and prepare a report accordingly. They should get the appraisal measurement of applicant's height conducted by a Medical Officer of Government Hospital within four weeks from the date of receipt of a copy of this order. The result of such measurement should be conveyed to the applicant directly within a week thereafter. In case, the applicant's height is more than or equal to 170 cms, letter of appointment may be issued to him, if found otherwise eligible, in accordance with law.

6. O.A. is allowed accordingly. No costs.

(Praveen Mahajan)
Member (A)

(Raj Vir Sharma)
Member (J)

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