

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

OA No.4497/2011

This the 7th day of October, 2015

Hon'ble Shri Justice B.P.Katakey, Member (J)
Hon'ble Shri V.N. Gaur, Member (A)

Rahul Chaudhary (Roll No.410914
Recruit Constable (Ex.) in Delhi Police
Aged About 22 years
S/o Sh. Ompal Choudhary
R/o VPO Pindora PS:Jhinjana.
Distt. Muzaffar Nagar, UP.

..... Applicant

(By Advocate: Shri Anil Singal)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary,
Delhi Secretariat
IP Estate, New Delhi
2. Lt.Governor of Delhi
Raj Niwas, Delhi
3. Commissioner of Police,
PHQ, IP Estate, New Delhi
4. D.C.P.
Recruitment cell
NPL, Kingsway Camp,
Delhi.

... Respondents

(By Advocate: Ms.Harvinder Oberoi)

ORDER(ORAL)

By Hon'ble Shri Justice B.P.Katakey,M(J):

The applicant, who pursuant to the recruitment process initiated as per advertisement issued in the year 2009 for the post of Constable (Exe.) fixing last date for filing application as 06.04.2009 and was disqualified on the ground of colour blindness, has filed this OA praying for a direction to the respondent authority to appoint him to the post of Constable (Exe.), based on his selection.

2. We have heard Shri Anil Singal learned counsel for the applicant and Ms. Harvinder Oberoi learned counsel for the respondents.

3. Referring to the advertisement issued in the year 2009 which stipulated medical examination and also subsequent amendment made in the Delhi Police (appointment and recruitment) Rules, 1980 (in short 1980 Rules), it has been submitted by learned counsel for the applicant that since colour blindness was not a disqualification for appointment as Constable (Exe.), respondent authority ought not to have rejected the candidature of the applicant on the ground of colour blindness, based on the amendment to 1980 Rules, which came into effect from 25.06.2010, whereby and whereunder the Appendix of

schedule 24 of 1980 Rules, has been amended, providing that the candidates shall be free from colour blindness for consideration for appointment. According to learned counsel, the said rule having been amended with effect from 25.06.2010, such disqualification cannot be made applicable, as the advertisement as well as selection were made prior to such amendment. Learned counsel in support of his contention has also referred to the Appendix 24, as stood prior to 2010 amendment, which provides that for the post of Driver and traffic staff only, the colour blindness would be a disqualification.

4. Learned counsel for the applicant referring to medical certificates dated 09.09.2010 and 24.12.2010, whereby and whereunder the applicant was found to be medically fit for the post other than Traffic and Driver post, submits that the applicant ought not to have been disqualified. It is, therefore, submitted that the respondents may be directed to consider the case of the applicant for appointment as Constable (Exe.) without taking colour blindness as disqualification.

5. Learned counsel for the respondents on the other hand referring to medical standard applicable in the year 2009, has submitted that since the candidate is required to be of sound state of health, free from defect, deformity and disease,

respondents have rightly refused to appoint the applicant, he being a colour blindness, which amounts to deformity.

6. It is not in dispute that the advertisement of 2009 was issued to fill up the post Constable (Exe.) prior to coming into effect the Delhi Police (Appointment & Recruitment) (Amendment) Rules 2010, whereby and whereunder Appendix to Rule 24 of 1980 Rules has been amended, which came into effect from 25.06.2010. The said Appendix prior to such amendment provides as under:-

" Points to be observed by Medical Officers in examining candidates for recruitment to the Delhi Police are indicated in the following paragraph.

Medical Officer will satisfy themselves regarding each candidate on the following points in the order given, If a disqualifying defect is noticed the recruit will be rejected without further examination and appropriate entries made in the 'Recruits Register. Each eye must have a full field of vision as tested by hand movements.

- (a) That the vision is upto the following standard:-
 - (i) For Constables, Head Constables and Sub-Inspectors, visual acuity (both eyes) 6/12 without glasses.
 - (ii) For drivers and Traffic staff visual acuity (both eyes) 6/12 without glasses shall be free from colour blindness.
 - (iii) For Clerical staff and technical hands, Distant vision."

7. It is, therefore, evident that the colour blindness was a disqualification in respect of the appointment to the post of Driver and traffic staff only. The same was not a disqualification for the post of Constable, Head Constable and Sub-Inspector. The said Appendix having provided that the colour blindness would be a disqualification in respect of Driver and traffic staff only, the submission advanced by the learned counsel for the respondents that the colour blindness would be a disqualification for appointment as Constable as well, that being a deformity, cannot be accepted because of the simple reason that had it been so colour blindness would have been mentioned as disqualification in respect of all post and not for the appointment as Driver and traffic staff only.

8. It is also appears from the communication dated 09.09.2010 and 24.12.2010 issued by the Director, Guru Nanak Eye Centre, New Delhi and Medical Superintendent of Pt. Madan Mohan Malaviya Hospital, respectively, where the applicant was examined by the Medical Board, that he was declared fit for appointment other than traffic staff and driver, in terms of unamended Appendix to Rule 24 of 1980 Rules.

9. The provision of 2010 amendment by which the Appendix to Rule 24 of 1980 Rules has been amended to the effect that the

colour blindness would be a disqualification in respect of appointment to the post of Constable even, cannot be applied in the case in hand, for the reason that the said amendment came into effect from 25.06.2010 and the advertisement was issued much prior to that and selection was also made prior to such amendment.

10. In view of the aforesaid discussion, we direct the respondents to consider the case of the applicant for appointment as Constable (Exe.), without taking colour blindness as disqualification. Necessary decision in this regard shall be taken by the respondents within a period of 3 months from the date of receipt of a copy of this order.

11. Needless to say that the applicant cannot be considered for appointment to the post of traffic staff and the driver.

12. OA is accordingly allowed to the extent indicated above. There shall be no order as to costs.

(V.N. Gaur)
Member(A)

(Justice B.P.Katakey)
Member(J)

/rb/