

**Central Administrative Tribunal
Principal Bench**

OA No.985/2016

New Delhi, this the 27th day of September, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Vishv Mohan, S/o Vasu Dev Sharma
Aged 23 years, R/o H.No.1
Roura Sector-3, District Bilaspur
Himachal Pradesh-174001.Applicant

(By Advocates: Jubli Momalia and Shri P.R. Kovilan)

Versus

1. Department of Personnel & Training
Union of India, M/o Personnel, Public
Grievances and Pensions through its
Secretary, Lok Nayak Bhawan
Khan Market, New Delhi-110003.
2. Union Public Service Commission
Through its Secretary
Dholpur House, Shahjahan Road
New Delhi-11009.
3. Guru Nanak Eye Centre through Chairman
Maharaja Ranjit Singh Marg
New Delhi-11002.
4. Lok Nayak Jai Prakash Hospital
Through chairman, 2, Near Delhi Gate
JN Marg, New Delhi, Delhi-110002.
5. Ram Maohar Lohia Hospital
Through Chairman, Baba Kharak Singh Marg
Near Gurudwara Bangla Sahib
Connaught Place, New Delhi
Delhi-110001.Respondents

(By Advocates: Shri R.V. Sinha with Shri Amit Sinha
and Shri Rajeev Kumar)

ORDER (ORAL)**Justice L. Narasimha Reddy:-**

The UPSC issued advertisement on 31.05.2014 for recruitment to All India Service for the year 2015. The applicant herein submitted his application claiming reservation under the Visually Handicapped category. The written examination was conducted on 14.12.2014 and the applicant emerged as successful therein. He has also participated in the interview held on 05.05.2015.

2. Since the applicant claimed reservation under the Visually Handicapped category, he was sent to the Medical Board of the Lok Nayak Jai Prakash Hospital (LNJP) for examination. The facility in that behalf existed at Guru Nanak Hospital which is said to be part of the same establishment. The test was conducted upon the applicant on 03.07.2015. The doctors who examined him certified his handicap at 20%. The applicant was not satisfied with the certification so made and on his request the case was referred to the Appellate Board. The Board in turn examined the

applicant on 21.07.2015. There also the Visual disability was certified at 20%.

3. Taking note of these developments, the DoP&T issued an order dated 29.09.2015 cancelling the candidature of the applicant. In this OA the applicant challenges the two medical reports dated 03.07.2015 and 21.07.2015 and the resultant order passed by the DoP&T dated 29.09.2015.

4. The applicant contends that no medical examination, worth its name, was conducted either at the initial stage on 03.07.20015 or at appellate stage on 21.07.2015 and his candidature was wrongfully cancelled. He contends that one month later he approached the All India Institute of Medical Sciences for being tested upon and a team of five doctors of that hospital tested him and certified his handicap at 75%. He contends that he is entitled to be treated as eligible under the reserved category.

5. The respondents filed a detailed counter affidavit. It is stated that the candidature of the applicant was considered strictly in accordance with the relevant rules and since he claimed benefit of reservation, his case

was referred to the notified hospital, for certification. It is stated that the team of doctors who examined the applicant found him to be handicap only to the extent of 20% and that the same result ensued when the appellate board examined him. It is urged that in matters of this nature, the Tribunal cannot substitute the opinion of any other agency.

6. We heard Shri P.R. Kovilam, learned counsel for the applicant and Shri Rajeev Kumar and Shri R.V. Sinha, learned counsel for respondent Nos. 1 and 2 respectively.

7. The applicant had secured fairly good marks in the written test as well as in the interview. However, he could have made it to the selection, if only he was treated as eligible under the Visually Handicapped candidate. Naturally for this purpose, the certification has to be made by an identified agency. The DoP&T has its own procedure and for certification of the visual disability, LNJP Hospital is identified and the facility for that purpose is available at an associated Hospital.

8. The applicant filled the form with his own hand and it is not disputed that he was examined by a team

of doctors on 03.07.2015. The report thereof is made part of record. It contains the readings that have been noted, as a result of examination and on overall consideration. The three doctors who examined the applicant came to a unanimous opinion that his visual handicap is 20%. The applicant disputed this finding and on his request, reference was made to an Appellate Medical Board. He was examined by the Appellate Medical Board on 21.07.2015. Almost same readings were noticed and the visual disability was certified at 20% by this board also.

9. The applicant is not able to demonstrate as to how the two reports, one by the medical board and the other by the appellate board, are defective in any manner.

10. Placing reliance upon a communication dated 06.07.2015 issued by the DoP&T, it is pleaded that the medical report is incomplete. A perusal of the same discloses that the intimation was to quite large number of candidates informing that the medical examination is incomplete and they were required to appear before the concerned hospital at 8.30 on the next day. This

was not in relation to the examination of visual disability, but as regards general medical checkup. The applicant did not appear in that and he seems to have made a request for extension of date. Another attempt is made to impress us that no medical board as such was constituted on 03.07.2015. It is based upon an answer said to have been issued to a different person under the Right to Information Act.

11. The certification obtained by the applicant from other doctors or teams of doctors cannot be accepted for the sole reason that, that was not on the basis of any reference by the DoP&T i.e. appellate authority. The Tribunal cannot substitute the opinion of others for that of experts.

12. The reservation is in favour of the visually handicapped candidates and, it is only a candidate who has real problem, as certified by the competent authority and not the one who does not meet the stipulated levels of disability, that can avail the benefit.

13. It is also pleaded that the handicap of the applicant was certified to be 75% in his Adhar Card by another Govt. hospital. Whatever may be the

authenticity of this document, in the context of selection to IAS, the Govt. has its own parameters and unless the certification by the concerned agency is forthcoming, the selection cannot be on the basis of the doctors in the Adhar card.

14. We do not find any merit in the OA. Accordingly it is dismissed. There shall be no order as to costs.

(Aradhana Johri) (Justice L. Narasimha Reddy)
Member(A) Chairman

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