

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

O.A No.2609/2017

New Delhi this the 4th day of September, 2018.

Hon'ble Mr. K.N. Shrivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Jagbir, S/o Sh. Veer Bhan,
R/o VPO Patherheri,
Teh. Manesar, Distt. Gurgaon,
Haryana-122413.

-Applicant

(By Advocate: Shri Ajesh Luthra)

Versus

Staff Selection Commission,
Through its Chairman (Headquarter),
Block No.12, CGO Complex,
Lodhi Road, New Delhi-3.

-Respondent

(By Advocate Shri G.S. Virk)

O R D E R (ORAL)

By Hon'ble K.N. Shrivastava, Member (A)

This Original Application (OA) has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

“a) Quash and set aside the impugned action of the respondents placed at Annexure A/1 and A/2 and dated 29/04/2017 and 17/07/2017 respectively.

b) Direct the respondents to further consider and appoint the applicant pursuant to the instant selection process in accordance with his merit and preference submitted by him, ignoring the ‘tattoo’ aspect;

c) Accord all consequential benefits.”

2. The factual matrix of the case, as noticed from the records, is as under:

2.1 The Staff Selection Commission (SSC) – respondent no.1 vide its Annexure A-3 notice notified **“The recruitment in Delhi Police, Central Armed Police Forces (CAPFs) and Assistant Sub Inspector in CISF Examination, 2016”**. The closing date for receipt of the applications was 05.02.2016. The applicant submitted his application for the said examination and was issued Annexure A-4 Admit Card for appearing in the examination. The selection comprised of three parts, namely, Preliminary Examination, Written Examination and Physical Endurance Test (PET).

2.2 A selected candidate was required to undergo medical test and only after him/her being declared medically fit, was to be issued offer of appointment. It is stated that the preliminary examination and written examination were conducted on 07.06.2016 and 18.12.2016. The applicant cleared both the examinations and has scored 237.5 marks. He was also subjected to PET on 20.09.2016, which he qualified.

2.3 The applicant thereafter was made to undergo medical examination at Composite Hospital, BSF Camp, Jalandhar Cantt on 17.04.2017. He was declared medically unfit on account of a tattoo on his left forearm. Accordingly, the Senior Medical Officer of 192 Bn., BSF, issued Annexure A-1 memorandum dated 19.04.2017.

2.4 The applicant vide his Annexure A-6 letter, addressed to Inspector General (Pers.), Directorate General, CISF, requested for review of his medical examination by review Medical Board. The applicant, in the meanwhile, underwent surgery for removal of the tattoo.

2.5 The applicant was examined by the Review Medical Board at CH BSF, Jodhpur on 17.07.2017, who vide its impugned Annexure A-2 Memorandum dated 17.07.2017 declared him medically unfit due to "Large scare on the forearm 8x7 cm. freshly operated – not healed completely".

2.6 Aggrieved by the impugned Annexures A-1 and A-2 Memoranda, the applicant has approached the Tribunal in the instant OA, praying for the reliefs as indicated in para-1 supra.

3. In support of the reliefs claimed, the applicant has broadly pleaded as under:

3.1 A tattoo over a body is not a medical condition and is not required to be considered for medical examination purposes. None of the Government guidelines prohibits 'tattoo' as a medical disqualification.

3.2 The applicant has been found normal as per the medical standards. He has got the tattoo removed by a minor surgery. The

large scar would heal up and is only temporary and does not cause any incapacitation in any way.

3.3 In an identical case, the Hon'ble Tribunal vide its order dated 09.05.2016 in **Amit Kumar v. Staff Selection Commission & Another**, [OA No.4512/2015] has held as under:

“ 5. From the foregoing discussion we find that the respondents have failed to place any material on record that would indicate that a candidate who has his tattoo removed surgically will be considered medically unfit. The Review Board declared the candidate unfit without considering whether for a post-op wound that is in the process of healing a candidate can be declared permanently unfit.”

3.4 Pursuant to the notice issued, the respondent entered appearance and filed its reply in which besides tracing the history of the case, it is stated that the Ministry of Home Affairs (MHA) vide its Annexure R-VI letter dated 16.01.2017 has laid down policy for recruitment of candidates in CAPFs having tattoos on various parts of bodies as under:

“(a) Content: Being a secular country, the religious sentiments of our countrymen are to be respected and thus, tattoos depicting religious symbol or figures and the name, as followed in Indian Army are to be permitted.

(b) Location: Tattoos marked on traditional sites of the body like inner aspect of forearm but only left forearm, being non saluting limb or dorsum of the hands are to be allowed.

(c) Size: Size must be less than $\frac{1}{4}$ of the particular part (Elbow or Hand) of the body.”

3.5 It is thus contended that the size of the tattoo on the applicant's forearm was of much bigger size in comparison to the size prescribed in the MHA letter dated 16.01.2017. The applicant

was not declared medically fit by the Medical Board. It is further stated that even at the time of examination by the Review Medical Board on 17.07.2017 the scar on the left forearm created due to surgery had not healed completely and hence he was declared medically unfit.

4. The applicant has filed rejoinder in which, besides reiterating the averments made in the OA, has additionally stated that the guidelines laid down in MHA letter dated 16.01.2017 have no statutory backing.

5. On completion of the pleadings, the case was taken up for hearing the arguments of the learned counsel for the parties today. Arguments of Shri Ajesh Luthra, learned counsel for the applicant and that of Shri G.S. Virk, learned counsel for the respondents were heard.

6. We have considered the arguments of the learned counsel for the parties and have also perused the pleadings. Admittedly, the applicant has successfully cleared all the three stages of the selection process, namely, preliminary examination, written examination and PET. The sole ground for him being declared medically unfit vide impugned Annexure A-1 memorandum dated 19.04.2017 was that he was having a large size tattoo (8x7cm) on his left forearm. The applicant has undergone minor surgery for

removal of the tattoo. At the time of his examination by the Review Medical Board on 17.07.2017, the Board noticed that the tattoo has been removed but the scar created by the surgery has not completely healed and consequently declared him medically unfit.

7. While we do understand and appreciate that a police officer in uniform has to present himself in a dignified manner. Presence of a large tattoo on a part of his body, which is easily visible, would certainly not to be appreciated and approved. Accordingly, the MHA has laid down policy guidelines in its Annexure R-VI letter dated 16.01.2017.

8. In the instant case, we find that the applicant has already undergone a minor surgery for removal of the tattoo. However, on the day of his medical examination by the Review Medical Board the scar/wound created on his left forearm by the surgery had not completely been healed. We are aghast to notice that the Review Medical Board declared him medically unfit on this ground. We find that in a situation somewhat identical, this Tribunal in its order dated 09.05.2016 in **Amit Kumar** (supra) has observed that a candidate who has removed a tattoo on his body surgically cannot be declared medically unfit. As observed therein, the post-operation wound could heal in the natural course and as such it cannot be a cause for declaring a person medically unfit.

9. In the conspectus of the discussions in the foregoing paras, this OA is allowed. The respondent is directed to get the applicant medically examined once again, within a period of two months. If his scar/wound has healed completely, the respondent shall recommend him for appointment within four weeks thereafter.

10. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(K.N. Shrivastava)
Member (A)

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