

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2641/2017

New Delhi this the 27th day of March, 2019

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr.S.N.Terdal, Member (J)**

Tarun,
S/o Shri Mohinder Singh Rana,
R/o 14/277, Gali No. 1, Dayanand Nagar,
Bahadurgarh, Distt- Jhajjar,
Haryana-126102.
Aged about 23 years
(Candidates towards SSC recruitment)

... Applicant

(By Advocate: Mr. Ajesh Luthra)

VERSUS

1. Staff Selection Commission,
Through its Chairman, Northern Region,
Block No.12, CGO Complex,
Lodhi Road, New Delhi-110003 ... Respondent

(By Advocate: Mr. R.K.Jain)

O R D E R (ORAL)

Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Mr. Ajesh Luthra, counsel for applicant and Mr. R.K.Jain, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

- a) quash and set aside the impugned medical report of 'unfitness' dated 15.07.2017 in respect of applicant (placed at Annexure A/1) and direct the respondents to treat the applicant as medically fit and
- 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.
- c) Accord all consequential benefits
- d) Award costs of the proceedings: and

e) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicant."

3. The relevant facts of the case are that in response to the employment notification issued by the Staff Selection Commission for the recruitment to various Police Organizations in the year 2016, the applicant had submitted his application. He had successfully cleared the preliminary written examination on 5.06.2016 and the main written examination on 18.12.2016 and he was subjected to Physical Endurance Test (PET) and he also qualified the PET held on 19.09.2016, but however, he was disqualified on medical ground for the reasons of (i) Low distant vision and (ii) Lower near vision, (iii) Tachy Cardia, (iv) Significant heartbeat, (v) Cubitus Valgus on 22.4.2017 (sic 24/4/17). The applicant preferred an appeal for review medical examination and he was once again subjected to review medical examination on 23.06.2017 and found medically unfit due to refractive surgery. Challenging the result of the review medical examination holding the applicant unfit, the applicant has filed this OA for the above stated reliefs.

4. The counsel for the applicant vehemently and strenuously submitted in view of notification of Home-I (Police) Establishment issued under Section 147 (1) and (2) of the Delhi Police Act, 1978 regarding the medical standard submitted that the medical assessment made by the respondents in holding the applicant 'unfit' is arbitrary and requires to be set aside and for treating the applicant medically fit. In support of his contention, the counsel for the applicant relied upon the judgment of Hon'ble Delhi High Court in the case of **Ms.Sreeja K. Vs. Union of India and Anr.** (W.P(C)3196/2012. But, however, in view of the fact that

applicant is seeking in the present case appointment in the combatised post which required high standard of medical fitness, the judgment in the above case is of no help to the applicant, as it pertains to medical examination with respect to a civil post.

5. The respondents have filed a counter reply in which they have very categorically stated that they have examined the applicant as per the guidelines for conducting medical examination in recruitment in Central Armed Forces and Assam Rifles which is produced as Annexure R-2 and stated that as per rules they have not only subjected the applicant for detailed medical examination on 24.04.2017 but also on his appeal subjected him for detailed review medical examination on 13.07.2017 as such their medical examination cannot be termed as unreasonable and arbitrary. The relevant portion of the averment is extracted below:

"That the applicant is a candidate for recruitment of Sub-Inspector in CAPFs & Delhi Police and Assistant Sub Inspector in CISF Exam, 2016. After qualifying in computer based Written Examination (Paper-1), PET/PST and Written Examination (Paper-II), he was called for Detailed Medical Examination (DME) which was conducted by CISF as a coordinating CAPF as per letter dated 12.05.2016 (Annexure R-1). His DME was held at Composite Hospital, BSF Jodhpur on 24.04.2017 and declared UNFIT due to (i) Low Distant Vision, (ii) Low Near Vision, (iii) Tachycardia, (iv) Irregular Heartbeat & (v) Cubitus Vaalgus". As per extant provision, he preferred appeal against the findings of DME Board. His appeal for Review Medical Examination (RME) was considered and accepted by the Appellate Authority, i.e. Inspector General/Pers, CISF Directorate, New Delhi. His RME was held at Composite Hospital, CRPF Jharodakalan on 13.07.2017. He was again declared UNFIT in RME due to "refractive surgery".

.....That the contents of these paras are wrong and hence denied. The medical examination of the applicant was carried out by the Review Medical Board strictly in accordance to stipulated medical guidelines for recruitment purpose. He was declared unfit by the RME Board "due to refractive surgery". As per extant medical guidelines for recruitment to the posts

in CAPFs, no visual correction is permitted even with glasses or by correction of vision by refractive surgery, i.e., LASIK. As per visual standard for direct entry Sub-officers in CAPFs, NSG & Assam Rifles prescribed in MHA (PESR-II) OM No.A.VI-1/2014-Rectt(SSB) dated 20.05.2015, at page No. 63, it is mentioned that LASIK is authorized for the post of GOS (Gazetted Officers) only. The posts for which the applicant is competing are not Gazetted Posts. Further, as per Sl.No.1 of Table-3 of extant medical guidelines prescribed by MHA, visual correction of any kind is not permitted even by glasses for recruitment to the posts of Sub-Officers (SOs) and other ranks (Ors) within the entry age of 18-35 years. Since the applicant was an aspirant for the posts of Sub-Officers (Sub-Inspector & Assistant Sub-Inspector) within the cited age group, correction of his visual standard through LASIK surgery, is a medical disqualification. Thus, the Applicant was declared unfit by the RME Board. Hence, the findings of RME Board declaring the applicant medically unfit is according to the extant medical guidelines, hence, cannot be termed as unreasonable and arbitrary."

The counsel for the respondents in support of the contention of the respondents relied upon the latest judgment of the Hon'ble High Court of Delhi in the case of **Vivek Choudhary Vs. Union of India and Ors.** (Writ Petition (Civil) 10826/2015). The relevant portion of the judgment is extracted below:

5. Different jobs need different health requirements. The petitioner was an incumbent for a job in a combatised force which requires a high standard of medical fitness.
6. We are neither competent to interfere with the report not inclined to do so as there are no materials to show the existence of any malafides or even any patent and apparent error which may call for interference in judicial review."

6. In view of the facts and circumstances of the case and in view of the detailed procedure followed by the respondents as stated in the extracted portion above and in view of the latest judgment in the case of

Vivek Chowdhury (supra), we are of the opinion that the medical assessment do not require to be interfered with.

7. Accordingly, the OA is disposed of. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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