

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.3094/2017

Reserved on: 27.03.2019

Pronounced on: 09.04.2019

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

Vikas
S/o Shri Ajeet Singh,
R/o Vill. Dabra, Post- Maycha,
Distt- Gautam Budh Nagar,
Greater Noida, U.P.-201310.
Aged about 29 years (Group C)
(Candidate 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.

... Respondent

(By Advocate: Mr. Ranjan Tyagi)

ORDER

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

We have heard Mr. Ajesh Luthra, counsel for applicant and Mr. Ranjan Tyagi, counsel for respondent, 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 and 10.04.2017 in respect of applicant (placed at Annexure A/1 and Annexure A/2) 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 regarding recruitment of Sub-Inspectors in Delhi Police, CAPFs and Assistant Sub-Inspector in CISF Examination, 2016, the applicant submitted his application. He appeared for preliminary written examination held on 6.06.2016 and thereafter he appears in the main written examination held on 18.12.2016. He also successfully cleared the Physical Endurance Test (PET) held on 17.09.2016. When he was subjected to medical examination on 10.04.2017, the applicant was disqualified for the reasons of (i) Tremors and (ii) Hypertension. On appeal preferred by the applicant, he was again subjected to review medical examination on 12.07.2017 and in the said review medical examination he was again found medically unfit due to Hypertension and Tremors and as such he was declared medically unfit. Subsequently on 22.08.2017 and 30.08.2017 the applicant got himself examined in Dr. Ram Manohar Lohia Hospital and Dr. Baba Saheb Ambedkar Hospital and got medical fitness certificate and on the basis these certificates the applicant has filed the present OA praying for setting aside the medical certificates issued on 10.04.2017 and 15.07.2017 and to declare him as medically fit. In support of his contention, the counsel for the applicant relied on the judgment of the Hon'ble Delhi High court in the case of **Deepak Pahal Vs. Staff Selection Commission** (Writ Petition (Civil) 43142/2017). But, however, from the perusal of the judgment it is clear that the Hon'ble High Court in the above said case directed the applicant

in that case to be subjected to further medical examination in view of the concession made by the counsel for the respondent-department as recorded in para 5 of the said judgment which is extracted below:

"5. Learned counsel for the respondent/SSC state that given the fact the petitioners have been declared fit by two Government hospitals, appropriate directions as may be deemed fit in the given circumstances may be issued by the Court....."

But, however, there is no such averment made by the respondents in the present case.

4. The respondents have filed a detailed counter reply in which they have stated that they have meticulously followed the procedure under their guidelines and there is no spoke for any further medical examination and as such the OA requires to be dismissed, the relevant portion is as follows:

"That the applicant preferred an appeal against the findings of medical examination (ME) which was accepted and he was issued call letter by Headquarter CISF, CGO Complex, New Delhi for his review medical examination to be held at Composite Hospital, BSF, Mandore Road, Jodhpur on 12.07.2017 vide letter No.E-32017(1)/27/SI-CAPF-2016/Rectt-1/1535 dated 24.06.2017.

The applicant was medically re-examined by a duly constituted review medical board in a proper manner in terms of para 6(1) and (16) of revised uniform guidelines for recruitment medical examination for recruitment of GOs and NGOs in the CAPFs & AR dated 20.05.2015 whereby "Hypertension" and "mental or nervous instability-evidence of nervous instability" are classified as general ground of rejection. His medical examination revealed that he has (i) 'tremors present and (ii) hypertension' and thus he did not meet the fitness medical standards required for the post of Sub-Inspector in CISF. It was clearly mentioned in the advertisement notice at Par 10 (C) 'Medical standard (for all posts)' (Annexure R-4) that they must be good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties. Accordingly, the applicant appeared before the review medical board on scheduled date and was medically re-examined by a duly constituted review medical board comprising of three medical officers of BSF other than those involved in his initial

medical examination and his review medical examination was conducted as per laid down guidelines for assessing his medical fitness. At the time of review medical examination, the grounds of unfitness of the applicant were thoroughly re-examined by the review medical examination Board and the petitioner was again found unfit due to 'Tremors Present' and (ii) "Hypertension" on 15.07.2017 (Annexure R-3). It is pertinent to mention here that on 15.07.2017, during RME, the BP of the applicant was checked thrice on different intervals and recorded as:

- (i) 160/100
- (ii) 190/100
- (iii). 160/102

Hence, he was declared unfit, due to "hypertension" and "Tremors Present". The result of review medical examination was also communicated to him and it was mentioned in "Note" of the communication that the decision of the review medical board will be final and no appeal will be entertained against the findings of review medical board in review medical examination.

5. In view of the facts and circumstances of the case referred to above and in view of the specific averments made by the respondents in the extracted portion of the counter reply referred to above, we do not find any arbitrariness or illegality in conducting the medical examinations and rejecting the applicant on medically unfitness and particularly in view of the judgment of Hon'ble High Court 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 narrated above and in view of the categorical averments made by the respondents extracted above

and in view of the judgment of Hon'ble High Court in the case of Vivek Choudhary (supra) extracted above, we do not find any merit in the present OA. Accordingly, the OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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