

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

O.A. No.3203 of 2018

This the 4th day of January, 2019

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

Anant Ram,
s/o Sh. Rajender Singh,
r/o Village Bachini, PO Bawania,
Dist. Mohinder Garh, Haryana – 123034.

Aged about 34 years
(Group 'C')
(Candidate towards SSC recruitment)
(By Advocate : Shri Ajesh Luthra)

....Applicant

VERSUS

1. Staff Selection Commission (NR),
Through its Chairman,
Block No.12, CGO Complex,
Lodhi Road, New Delhi-110003.
2. Commissioner of Police,
PHQ, MSO Building,
IP Estate, New Delhi.

.....Respondents

(By Advocates: Shri Amit Anand and Shri G.D. Chawla for
Mrs. Harvinder Oberoi)

ORDER (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

“(a) Quash and set aside the impugned medical report/order of ‘unfitness’ dated 13/08/2018 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 the applicant for appointed in the recruitment process against his roll number 2201160081 with all consequential benefits.
- (c) Award costs of the proceedings; and
- (d) Pass any other order/direction which this Hon'ble Tribunal deems fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case.

3. Facts in brief as stated in the OA are that the applicant in response to an employment notification relating to recruitment to the Post of Sub-Inspector (Male) in Delhi Police and other police organization issued by Staff Selection Commission (SSC) for the year 2017 applied and participated in the selection process. The applicant has been subjected to preliminary written exam and main written exam on 3.7.2017 and 15.12.2017 respectively. The applicant belongs to Ex-servicemen category. The applicant also participated in Physical Endurance Test on 30.10.2017. The applicant successfully cleared the physical endurance test and has also secured 100.25 marks in preliminary exam and 152.75 in main written exam. His total marks are 253.00. However, in the medical examination conducted on 18.4.2018, he was declared medically unfit for the reasons of adverse urine report, over weight and left sided testicular atrophy.

3.1 Applicant preferred an appeal for his re-medical examination and enclosed copies of medical certificates certifying his fitness in regard to the alleged medical problems. On his appeal, the applicant was called for review medical examination on 13.8.2018 and was medically re-examined where he has been declared unfit on account of 'Left atrophy testicle vide result dated 13.8.2018.

3.2 Being aggrieved by the aforesaid result dated 13.8.2018, the applicant has filed this OA seeking the reliefs as quoted above.

4. Pursuant to notice, respondent no.2 has filed counter reply in which it is stated that as per Rule-7 and Employment notification issued by SSC, the Medical standard for the post is as under:-

- “(i) The minimum distant vision should be 6/6 and 6/9 or both eyes without correction i.e. without wearing of glasses.
- (ii) The candidates must not have knock knee, flat foot, varicose vein or squint in eyes and they should possess high colour vision.
- (iii) They must be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties.”

4.1 It is further stated that although the SSC is the main party whereas the Delhi Police is a proforma party being user department, as the said recruitment is being conducted by the SSC.

4.2 The candidates along with the applicant were medically examined as per the norms/medical standards for the post by the Medical authority and declared the applicant as unfit. As such, the action taken by the respondents is legal & justified.

5. During the course of hearing, counsel for the applicant submitted that the impugned order/action of the respondents is highly illegal, unfair and unsubstantiated, as according to him, Atrophic Testicle is not a disqualification enumerated in Delhi Police medical fitness criteria. He further submitted that atrophic testicle has nothing to do with the normal discharge and functional abilities in performance of duties and that the applicant does not suffer from any such defect/deformity.

6. Counsel for respondents submitted that as per the medical standards of the RRs of the post in question, the candidates were called for medical examination by the SSC and the applicant also appeared in the medical examination conducted on 18.4.2018, he was declared medically unfit for the reasons of adverse urine report, over weight and left sided testicular atrophy and when the applicant submitted his appeal, he was called for re-medical examination by an independent Medical Board on 13.8.2018 and was medically re-examined which had also declared him unfit on account of certain deformities in his medical standard vide result dated

13.8.2018. He further submitted that one of the conditions of medical standards is that candidate must be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties.

7. It is an admitted fact that at the initial stage of medical examination conducted by Medical Board, the applicant was declared unfit and was given an opportunity to prefer an appeal. As the appeal in such cases is permissible only when a candidate is able to produce a fitness certificate from medical practitioner or Govt. hospital, which certificate was produced by the applicant and consequently his appeal was entertained and a Review Medical Examination Board was constituted for this purpose, which consisted of Specialists. This Review Medical Examination recorded the finding vide Result dated 13.8.2018.

8. From the perusal of the above result of review medical examination, it is clear that the applicant was declared unfit due to certain medical unfitness and one of which is Left Atrophy Testis, which was the opinion of the Medical Examination authority and Review Medical Examination authority. It is not the case of the applicant that due to bias and malafide intentions on the part of the respondents, he was declared as medically unfit. The applicant's pleas that the aforesaid actions of the respondents are arbitrary or illegal on

the strength of certificates issued by Rajiv Gandhi General Hospital Alwar, copies of which are annexed with the OA; and the respondents are not justified in not issuing appointment letter to the applicant are not sustainable in the eyes of law as those certificates only gave an opportunity to the applicant to prefer an appeal. As the applicant has submitted the said certificates within the permissible time, the respondents have entertained his appeal and accordingly constituted a Review Medical Examination Board in this regard. The said Review Medical Examination Board consists of Specialists, being an independent body, and has taken an independent decision with regard to suitability of the applicant having regard to the nature of the duties to be performed by the applicant, if he is so appointed to the post in question. Therefore, the decision arrived at by the said Review Medical Examination Board vide impugned Result of Review Medical Examination dated 13.8.2018 cannot be interfered with by this Tribunal in exercise of its power of judicial review.

9. It is relevant to note that the Hon'ble Supreme Court of India in the case of **Secretary, Ministry of Defence & Ors. v. Damodaran A.V.(Dead) through LRs**, 2009(13) SCR 416, wherein it was held that the Medical Board is an expert body and its opinion is entitled to be given the due weightage while examining the medical issues. In this case, initial stage of

medical examination conducted by Medical Board, the applicant was declared unfit and was given an opportunity to prefer an appeal. On an appeal preferred by the applicant, a Review Medical Examination Board was constituted for this purpose, which consisted of Specialists. This Review Medical Examination recorded the finding vide Result dated 13.8.2018 declaring him again medically unfit for the post in question. We find no ground to interfere.

10. In the result, for the foregoing reasons, we do not find any merit in the present case and the same is accordingly dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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