

**Central Administrative Tribunal  
Principal Bench**

**OA No.2982/2016  
MA No.5090/2018**

New Delhi, this the 27<sup>th</sup> day of September, 2019

**Hon'ble Justice Mr. L. Narasimha Reddy, Chairman  
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Khitesh Gupta, aged about 27 years  
S/o Sh. Ram Prakash Gupta  
R/o Ward No.28, Saraswati Nagar  
Balaghat, Madhya Pradesh-481001

Presently at  
14, Type-IV, Income Tax Colony  
Sector-3, GB Block  
Salt Lake, Kolkata  
West Bengal-700097.

...Applicant

(By Advocate: Shri Abhimanyu Garg)

Vs.

1. Department of Personnel & Training  
Through its Secretary  
North Block, New Delhi-110001.
2. Guru Teg Bahadur Hospital  
Through its Medical Superintendent  
Government of NCT of Delhi  
Dilshad Garden, Delhi-110095.
3. Safdarjung Hospital  
Through its Medical Superintendent  
Safdarjung West  
New Delhi-110029.

...Respondents

(By Advocates: Shri Vijay Kumar Pandita and Shri J.P.  
Tiwari)

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

The applicant took part in the Central Civil Services Examination, 2013(CSE 2013) and secured rank No.184. In the medical examination, that was mandatory, he was found fit for non technical services. Therefore, he was allocated to IRS. In the subsequent year, i.e., CSE 2014, he secured rank No.535. It is stated that in the medical examination he was found fit. In the light of this, he started claiming that he be re-allocated to IPS with reference to CSE 2013, in view of his present medical condition. That was not acceded to.

2. The applicant has filed Writ Petition No.10360/2015 with a prayer to direct the respondents to amend the medical report in the light of subsequent allocation. The Writ Petition was disposed of directing the respondents to decide the representation dated 03.08.2015 submitted by the applicant, through a speaking order. Through the order dated 03.12.2015, the respondents informed the applicant that the cadre

allocation is to be done with reference to the medical report of the concerned year and his request cannot be acceded to. Thereafter, the applicant filed Writ Petition No.1831/2016 before the Hon'ble High Court of Delhi, seeking allocation to IPS for the CSE 2013. The Writ Petition was returned with liberty to approach this Tribunal. Accordingly, the present OA is filed. The applicant contends that he was found unfit for technical services, only on a temporary basis and once it became evident that the so-called unfitness has ceased to exist, there is no basis for the respondents to deny him the appropriate allocation.

3. The respondent Nos. 1 and 3 on the one hand, and respondent No.2 on the other, filed separate counter affidavits. According to them, the applicant was subjected to medical test along with the other candidates with reference to CSE 2013 and he was found to be unfit for technical services, which include IPS. It is stated that the applicant signed a declaration on 06.08.2014, stating that he is satisfied with the finding of the Medical Board and despite that, he went on making claims to the contrary. It is also stated that

the order passed by the first respondent, in compliance with the directions issued in Writ Petition No.10360/2015, was not challenged and that the OA is devoid of merits.

4. We heard Shri Abhimanyu Garg, learned counsel for the applicant, Shri Vijay Kumar Pandita with Shri J.P. Tiwari, learned counsel for the respondents.

5. The applicant secured 184<sup>th</sup> rank in CSE 2013. It is not in dispute that in the ordinary course, he could have been allocated to IPS if he is otherwise fit. As required under the relevant rules, the applicant was subjected to medical examination. On 15.07.2014, the Board certified the applicant as under:-

“Fit for non technical services only”

6. The applicant did not challenge this. The DOP&T issued notice dated 25.07.2014, indicating the list of medically unfit candidates, in the context of allocation. They were also permitted to submit appeals within 21 days from the date of the notice. The name of the applicant figured at Sl. No.9. He did not prefer any

appeal against the same. On the other hand, he filed an undertaking on 06.08.2014, which reads as under:-

“I am declared “fit only for the non-technical services” by the medical board of GTB Hospital. I am satisfied with the findings of the medical board and don’t want to appeal against it.”

Accordingly, he was allocated to IRS and he joined the same.

7. After joining IRS, the applicant appeared in CSE 2014. This time, his rank was far less than the previous year’s rank, i.e., 535. However, in the medical test, he was found to be fit in all respects. Taking that into account, the applicant started making claims for allocation to IPS with reference to CSE 2013. When his request was not acceded to, he filed Writ Petition No.10360/2015. That was disposed of directing the respondents to pass a reasoned order. Accordingly, the respondents passed order dated 03.12.2015. The operative portion thereof reads as under:-

“Now, therefore, in pursuance of the Hon’ble High Courts’ direction vide its aforementioned order, it is stated that the medical status of the Shri Khitesh Gupta

cannot be changed at this stage. The service allocated to Shri Gupta is as per the Civil Services Examination-2013 Rules. No change, at this stage, can be made in the service allocation to Shri Gupta, and therefore, the same would be treated as final.”

8. This order was not challenged by the applicant. However, he filed another Writ Petition claiming allocation to IPS as against CSE 2013. On the Writ Petition being disposed of, he filed this OA with the only prayer in the form of a direction to the respondents to allocate him to IPS as against his rank secured in CSE 2013. Neither any prayer for declaration about the medical status is made, nor was any other direction sought.

9. The applicant does not dispute that his medical condition, as certified by the concerned Medical Board, is an important factor, for the purpose of allocation. Though the applicant made an attempt to state that he was not aware of the medical report, it is clearly evident from the notice, issued by the DOP&T on 25.07.2015, that the medical condition of all the candidates, who were found unfit, either on temporary or on permanent basis, was indicated. Facility of

appeal, provided for under the rules, was not availed by the applicant. On the other hand, he expressed his satisfaction about the same. Accordingly, he was allocated to IRS and he joined that service.

10. The only basis for the applicant to file this OA appears to be that in the medical examination, conducted with reference to CSE 2014, he was found fit. Even if that is true, it hardly makes any difference. The allocation is made with reference to the medical condition of the candidates for the relevant point of time.

11. It is not uncommon that the medical condition changes to the advantage or dis-advantage of candidates at subsequent stages. That hardly would impact the allocation made earlier. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

Pending MA also stands disposed of.

**(Mohd. Jamshed)**  
**Member(A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/vb/