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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.990 of 2003

New Delhi, the 3rd day of February, 2004.

Hon'ble Shri Bharat Bhushan, Member(J)

Ex.Constable (Driver) krishan No.759/L
S/o Shri Jaipal Singh
R/o Jagdamba Colony,
Johri Pur,
Delhi-94

.... Applicant.

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India,
Through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Joint Commissioner of Police,
Provisioning & Logistics,
5, Rajpur Road,
Delhi.
3. Dy.Commissioner of Police,
Prov & Logistics,
5, Raj pur Road.

.... Respondents

(By Advocate: Shri Ajesh Luthra)

Order (Oral)

Heard.

1. The applicant was appointed as Constable in Delhi Police on 16.6.1982. In the year 1990 he got his cadre changed to Driver in Delhi Police. It is alleged that he was examined in the Civil Hospital Delhi in April, 2002 and was found to be epileptic. In view of such medical report, a notice (Annexure-1) dated 26.4.2002 was issued under the signature of Deputy Commissioner of Police, Prov. & Lines, Delhi directing therein that he be immediately relieved to proceed on leave till the date of his actual retirement for which a separate order was to be issued. However, he was informed that he could file a request within one month, if he so desired, to be examined by Medical Review Board duly supported by

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prima facie evidence that good grounds existed for doing so and for that purpose he was liable to pay the fee under the rules for such examination. The said order also contained the fact that he was a patient of Epilepsy and Ideopathic cause and not fit for Driving Motor Vehicle. Pursuant to that on 24.5.2002 an order (Annexure-2) was passed by the respondents thereby invalidating the petitioner out of service with immediate effect on medical grounds under Central Civil Service (Medical Examination) Rules, 1957 and thus he was ordered to be deemed to have retired on invalidation pension with effect from 26.5.2002(F/N).

2. The aforesaid order was challenged by the applicant before the Appellate Authority and the Appellate Authority, ^{ie} the Jt. Commissioner of Police vide order dated 31.7.2002 (Annexure-3) dismissed the appeal. While considering the submission of the applicant for his absorption in some other Government duty of the department, he observed that :-

"The submission of the Driver Constable for his absorption in some other Govt. duty of the department can also not be adjusted as in the clarification the medical board which examined him was clearly stated "Shri. Krishan Pal to be completely and permanently incapacitated for further service of any kind in the Department to which he belongs in consequence of Epilepsy and Ideopathic Cause."

3. Learned counsel for the respondents has today brought on record a photocopy of the medical certificate of the Doctors of medical board dated 5.6.2002 wherein it has been only recorded that the applicant is completely and permanently incapacitated for further service of any kind in the department. He has been

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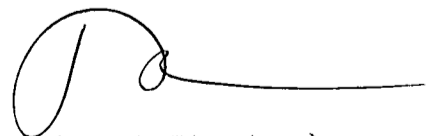
suffering from Epilepsy and Ideopathic cause. So obviously, this certificate by the Appellate Authority has been taken into consideration only subsequently while deciding the appeal as the same was ~~informed~~ ^{never available} only while passing the impugned order dated 26.4.2002. The applicant has taken treatment from the same Hospital from which the said medical certificate by the respondents has been obtained. The prescription dated 26.8.2004 ^(A-6) of the said hospital in respect of the applicant shows that the patient was fit for duty. Learned counsel for the applicant has also contended that due to certain personal problems the applicant could not earlier request for examination by the Medical Review Board.

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4. Having regard to the documents on record, i.e., the medical report dated 5.6.2002 produced before me today, the medical prescription slip of the applicant (Annexure-6) the interests of justice can be served if the respondents at this stage are directed to submit the applicant's case again before the Medical Review Board at the expense of the applicant only so as to get a report as on date whether the applicant is fit to be retained in service on any kind of duty in the department or not. The fee should be desposited by the applicant within a period of 15 days from today and the examination be done within a period of one month thereafter.

5. With this, OA stands disposed of.

Issue Dasti.



(Bharat Bhushan)
Member (J)

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