

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 2376/2003

New Delhi, this the 8th day of March, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI S.K.NAIK, MEMBER (A)

Rajvir Singh  
s/o Shri Chander Bhan  
Constable in Delhi Police  
(PIS No.28884082)  
R/o V & PO:- Pakasma  
Distt:- Rohtak, Haryana  
Presently residing at:-  
616, Krishi Apartment, D Block  
Vikas Puri,  
New Delhi - 18. ... Applicant

(By Advocate: Sh. Anil Singal)

Versus

1. Staff Selection Commission  
Through its Chairman  
C.G.O.Complex, Lodhi Road  
New Delhi - 110 003.
2. GNCT of Delhi through  
Commissioner of Police  
Police Head Quarter  
IP Estate, New Delhi.
3. DCP (Headquarter-1)  
Police Head Quarter  
IP Estate, New Delhi. ... Respondents

(By Advocate: Sh. S.M.Arif with Shri Ram Kawar)

O R D E R (Oral)

Justice V.S. Aggarwal:-

Applicant joined the Delhi Police as Constable on 20.12.1988. He applied for the post of Sub-Inspector in response to the advertisement appearing in the Employment Exchange News for the Combined Main (Graduate level) Examination-2001 as a departmental candidate for which the 10% vacancies of the total vacancies were reserved for departmental candidates under Rule 7 of the Delhi Police (Appointment and Recruitment) Rules, 1980.

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2. The applicant contends that he had qualified the preliminary examination and the main examination. He was called for Physical Endurance Test which he had earlier qualified when he was recruited as Constable. He was suffering from back-ache and stiffness. He could not properly perform high jump after completion of race. Therefore, he has not been selected.

3. By virtue of the present application, the applicant seeks setting aside of the action of the respondents in requiring him to qualify the Physical Endurance Test being a departmental candidate and to direct the respondents to treat the impugned disqualifications as illegal, ultra-vires and without jurisdiction.

4. The Original Application has been contested. One reply has been filed by the Respondent No.1 and another by Respondents No.2 and 3. So far as the Staff Selection Commission is concerned, it does not dispute that applicant had appeared as a departmental candidate in the Combined (Graduate Level) Examination-2001 for the post of Sub-Inspector (Executive). The result was declared and the applicant had qualified the written test. The applicant could not, however, qualify in the high jump despite three chances. Thereafter, he submitted an application in the Police Headquarter stating that he appeared in the Physical Endurance Test but could not qualify and requested for another chance. The said request had been rejected. It is denied that the

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applicant is entitled to the reliefs claimed above.

5. In almost identical terms, is the replies of the Respondents NO.2 and 3.

6. It is not disputed that under Rule 7 of Delhi Police (Appointment and Recruitment) Rules, 1980, for recruitment to Sub-Inspector 50% of the vacancies have to be filled by way of promotion. Out of 50% direct quota vacancies, 10% had to be filled through the departmental candidates. Applicant contends that he had qualified in the written test and being a departmental candidate, he could not have been subjected to Physical Endurance Test which he had already passed when he joined as Constable.

7. The Staff Selection Commission had advertised the post for filling up the post of Sub-Inspector referred to above. Besides prescribing the qualifications in respect of Height, measurement of the Chest, Vision, with respect to Physical Endurance Test, it mentions:

"8. Physical Endurance Tests and Physical Requirements for the post of Sub-Inspectors (Ex.) in Delhi Police.

Candidates who qualify in the Main Examination shall be required to undergo, before the Personality Test, Physical endurance test and physical measurements (including vision tests) to be conducted by the Delhi Police. These tests would be held in Delhi only.

The physical Endurance Tests are as under:

(i) 1000 meter race in 7 minutes (Refer to Corrigendum published in the Employment News dated 4-10, Nov. 2000)

(ii) Broad Jump/Long Jump : 3.5 meter, and

(iii) High Jump : 1.05 meter.

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Candidates who are competing for the posts of Sub-Inspector (Executive) Delhi Police should satisfy the following physical requirements, failing which they will not be eligible for appointment:

(i) Height: 170 Cms. (minimum)

Relaxable by 5 cms for Gorkhas and Garhwalis (only residents of Distts. Paurigarhwal, Tehri, Chamoli and Uttarkashi.).

(ii) Chest: 81 cms (85 cms after expansion)

Relaxable by 5 cms for Gorkhas and Garhwalis (only residents of Distts. Paurigarhwal, Tehri, Chamoli and Uttarkashi.).

(iii) Should possess sound Health free from defect/deformity /desease. Vision in both eyes should be 6/12 (without glasses). There should be no colour blindness. No relaxation in these conditions can be allowed."

8. In other words, the applicant was conscious of the same when the advertisement appeared. He did not challenge the same holding that he could not be called upon to undergo the Physical Endurance Test.

9. In fact, it was not disputed that the applicant took the Physical Endurance Test and could not qualify the same. He was given three chances. Having known as to what the advertisement was and taking part in the same as advertised, it is too late in the day for the applicant to challenge the same holding that his selection cannot be subject to Physical Endurance Test. There is no equity, therefore, in this regard in favour of the applicant.

10. Strong reliance was being placed on the decision of the Delhi High Court in CW No.1730/82 titled Constable Sunder Dev v. Union of India and Others decided on 18.11.1982. A perusal of the said decision would reveal that recruitment for the post of

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Sub-Inspector was to take place. There was 10% quota as has been noticed above for the departmental candidates, namely, Constables, Head Constables and Assistant Sub Inspectors. The dispute basically was pertaining to the height. The Delhi High Court allowed the same.

11. Almost similar question arose in the case of Constable Shambhu Dayal v. Union of India & Others CW No.1227/83, decided on 16.7.1984. Therein, Delhi High Court held:

"Rule 7 provides for the recruitment of Sub-Inspector (Executive) both by the method of direct recruitment as well as by promotion. The educational qualification, physical and other standards for the post of Sub-Inspector (direct recruits) have been provided in various separate numerals. The main part of the Rule says that the educational qualifications and other physical standards for the test shall be the same as prescribed in the rules for direct recruitment to such posts. This is obviously for the persons who are being recruited by promotion in the 50% quota or in the 10% of the posts filled by the limited departmental competitive test from the departmental candidates. The physical and other standards for the posts of Sub-Inspector (direct recruits) mentions three heads. The physical standard is provided at serial No.5 and other standards, namely, height and chest at serial No.2 and 3, the physical standard, therefore, mentioned for the promotes or departmental candidates is the one which is mentioned at serial No.5, the height requirement of 170 cms. Would not apply in case of candidate other than Sub-Inspector (direct recruits) similarly, the chest requirement of 81 cms to 85 cms would not apply to the promotes or limited departmental competitive tests candidates. This is further evident that there is a requirement of age of 20-25 years in case of direct recruitments but in case of 10% of the departmental candidates, the requirement of age is not more than 30 years. Having requisite qualifications and physical standards. The petitioner possesses the educational qualification as required. The physical standard prescribed is of sound health

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free from defect/deformity/disease, both eyes vision 6/12 (without glasses). No colour blindness. This the petitioner also possesses. In my view these are the only conditions which are required under Rule 7 and the requirement of height and chest is not applicable in case of departmental candidates in the quota of 10% reserved to be filled by limited departmental competitive tests."

12. It is obvious that in both the cited cases, controversy pertained to the height of the concerned persons. It has nothing to do with the Physical Endurance Test to which we have referred to above. We find no reason to hold that the Physical Endurance Test once undergone, a Constable must continue for ever. The applicant was treated to be Sub-Inspector in the direct recruitment quota of 10% reserved for departmental candidates. If he could not qualify the Physical Endurance Test, question of selection under such quota for the post of Sub-Inspector will not arise, more so in Police force. The logic given that he had to undergo the same afresh was valid, keeping in view the nature of the duties that one has to perform.

13. Thus looking to the either of the angle, we are of the considered opinion that the application is without any merit. It must fail and is accordingly dismissed.

Announced.

Naik  
(S.K. Naik)  
Member (A)

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(V.S. Aggarwal)  
Chairman

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