

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2731/2017

Order reserved on 1st November 2019

Order pronounced on 21st November 2019

Hon'ble Mr. R N Singh, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)

Nitin Kumar s/o Sh. Raj Kumar
r/o H.No.7, Malerna Road
Opp. Sai Sai Sanitory Store, Mahavir Colony
Ballabgarh, Faridabad, Haryana 121004

Aged about 24 years
(Candidate towards SSC recruitment)

..Applicant

(Mr. Ajesh Luthra, Advocate)

Versus

Staff Selection Commission
Through its Chairman
Northern Region
Block No.12, CGO Complex
Lodhi Road, New Delhi – 110 003

..Respondent

(Mr. J P Tiwari, Advocate)

O R D E R

Ms. Aradhana Johri:

The applicant, Mr. Nitin Kumar, participated in the recruitment of Sub-Inspectors in Delhi Police, CAPFs and Assistant Sub Inspector in CISF Examination, 2016. He cleared the preliminary examination and participated in the main examination. At the stage of medical, he cleared the physical endurance test (PET), but vide memorandum dated 08.04.2017 was declared 'unfit' due to *pityriasis versicolor* and

hypertension. He subsequently obtained a second opinion from Civil Hospital, Faridabad on 10.04.2017, which was that of dermatology side and stated the following:

“This is not a case of Pityriasis versicolor, fit medically from dermatology side.”

2. This certificate further stated that the applicant is fit from physician point of view. He filed an appeal for review by the Medical Board. The Medical Board reviewed his case on 17.07.2017 and fairly modified the opinion of the initial examining doctor by stating that there was no *pityriasis versicolor*. However, the Medical Board declared him unfit due to hypertension. The applicant has claimed that he was examined in OPD by Dr. RML Hospital on 08.08.2017 and was found to be ‘non-hypertensive’.

The applicant has filed this O.A. seeking to quash the medical reports of unfitness dated 08.04.2017 and 17.07.2017, and for a direction to the respondents to treat him as medically fit.

3. The respondents have denied the claim of the applicant and have stated that the medical examinations were done as per the procedure. They have pointed out that the recruitment notice itself had the following note:

“Note.III Medical Examination All the candidates who qualify in the PET will be medically examined by the Medical Officer of the CAPFs or any other Medical Officer or Assistant Surgeon belonging to Grade I of any Central/State Govt. Hospital or Dispensary. Candidates, who are found to be unfit, will be informed of the position and they can make an appeal before Review Medical Board within the prescribed time limit of 15 days. Decision of Re-Medical Board/Review Medical Board will be final and no appeal / representation against the decision of the Re-Medical Board / Review Medical Board will be entertained.”

4. As per the respondents, this procedure has been followed and an opportunity given to the applicant regarding medical fitness. They have further stated the following:

“The Applicant was medically re-examined by a duly constituted Medical Board in a proper manner and as per para 6 (1) of Revised uniform guidelines for recruitment Medical Examination for recruitment of GOs and NGOs in the CAPFs & AR dated 20.05.2015 (Annexure R/5) wherein “Hypertension” is mentioned as general ground for rejection. His Medical Examination revealed that the Applicant has “Hypertension” hence, he does not meet the fit medical standards required for the post of Sub Inspector in Delhi Police, CAPFs and Assistant Sub-Inspector in CISF. It was clearly mentioned in the advertisement notice at Para 10 (C) ‘Medical Standard (for all posts)’ (Annexure R/6) that “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.”

5. The applicant has cited the decision of Hon’ble High Court of Delhi in **Deepak Pahal v. Staff Selection Commission** (W.P. (C) No.6753/2017 & batch) decided on 21.05.2018, to support his case, wherein it was directed that the

petitioners therein shall present themselves at the Army Hospital (R&R), New Delhi.

6. The respondents have cited the decision of this Tribunal in O.A. No.2849/2017 decided on 25.04.2019, which pertains to the same selection of Sub-Inspectors in Delhi Police, CAPFs and CISF in the year 2016, as the current O.A. In the said O.A, the Tribunal has held that apart from other issues, it has also been found that the certificate issued by the AIIMS in favour of the applicant, makes no mention about the earlier certificates, and the O.A. for re-examination after the Medical Board has been dismissed.

7. Heard Mr. Ajesh Luthra, learned counsel for applicant and Mr. J P Tiwari, learned counsel for respondents and perused the records.

8. First of all, it is important to see that what exactly was laid down in the recruitment advertisement. In other words, what was in the knowledge of the applicant at the time of his applying for the post. The advertisement clearly stipulates that all the candidates who qualify in the PET will be examined by the medical officer of the CAPF or any other medical officer etc. Candidates who are found to be unfit will be informed of the position and they can make appeal before review medical board within the prescribed time limit of 15 days. The decision of

review medical board will be final and no appeal/representation will be entertained against such decision.

9. Further, the O.M. of 20.05.2015 clearly lays down that the diseases like hypertension, etc. are grounds for rejection. Indeed, the position applied for is of Central Armed Police Forces and requires a high level of mental and bodily health. Therefore, it is very clear that the applicant was aware that hypertension is a reason for rejection of candidature and he was allowed to file appeal to the Medical Board in case of he was found unfit.

10. The report of the office of Civil Surgeon, Faridabad was duly considered and the applicant was re-examined by the Medical Board consisting of three specialists, whose decision was to be final as per the very recruitment notice itself.

11. As far as the opinion of Dr. RML Hospital is concerned, it is an OPD Registration and there is no reference to the earlier examinations, whereas it has been laid down that in case an opinion is sought against the medical fitness examination, the second hospital/doctor must specify that this is a case of medical fitness being re-examined. This was done in the first report produced by the applicant from Civil Surgeon, Faridabad after which the Medical Board had re-examined. The very same fact has been considered by the Tribunal in O.A.

No.2849/2017, in the case of another candidate for the same 2016 exam for Sub-Inspector in Delhi Police and CAPFs and ASI in CISF, wherein the second fitness certificate had been provided by the candidate but it made no mention about the rejection on medical grounds earlier. Perhaps, the reason for this is that at the time of OPD Registration, the identity of the patient who comes to be examined is not verified. Due to pressure of work, the examining doctor simply sees the OPD Registration, which can be issued to anyone. Therefore, too much credence should not be placed on this decision. Further, OPD registration of RML does not even mention the parentage, address or any other unique particulars of the applicant.

12. The ruling of the Hon'ble High Court of Delhi in the case of Deepak Pahal v. Staff Selection Commission (Supra), cited by the applicant wherein the applicant was allowed to approach the Army Hospital, R&R, New Delhi on the basis of the fitness certificates issued by RML Hospital and Hindu Rao Hospital, there was no issue of the re-examination report not citing that it was a case of medical fitness of re-examination. Thus, this case is different to that of Deepak Pahal cited by the applicant.

13. For the above reasons, the O.A. is dismissed. No order as to costs.

(Aradhana Johri)
Member (A)

(R N Singh)
Member (J)

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