

(2006) 03 DEL CK 0043

In the Delhi High Court

Case No : Writ Petition (C) No. 8211 of 2005

Anish Barla

APPELLANT

Vs

Union Public Services Commission

RESPONDENT

Date of Decision : 14-03-2006

Acts Referred:

Citation : (2007) 3 SLJ 66

Hon'ble Judges : Reva Khetrapal, J;Dr. M.K. Sharma, J

Bench : Division Bench

Advocate : Ujwal Kumar Jha, for the Appellant; Rajender Nischal and Anil Nag and A. Das Gupta, for the Respondent

Judgement

Mukundakam Sharma and Reva Khetrapal, JJ.—This writ petition is directed against the action of the respondents in rejecting the candidature of the petitioner for appointment to the post of Assistant Commandant, Group "A" in the Central Police Forces on the ground of medical unfitness. The petitioner, a scheduled tribe candidate, submitted his application for the post of Assistant Commandant, Group "A" in the Central Police Forces. The petitioner cleared all the tests during the recruitment process but was not selected in the medical test, and was declared medically unfit by the Medical Board of the respondent on the ground that he had superficial skin disease. At the request of the petitioner, he was again medically examined by the Review Medical Board, but even in the said Review Medical Board he has found medically unfit for continuing superficial skin infection in lower limbs. The respondents, Therefore, rejected the candidature of the petitioner on medical ground holding that since it had not subsided over a period of six weeks, impliedly it was more than a superficial infection and was an inveterate skin disease. The aforesaid stand was taken by the respondent in view of the Hand Book of Medical Examination, which is applicable to the respondent's department. It is found there from that if a candidate is suffering from an inveterate skin disease, his candidature can be rejected. Accordingly, a decision was taken by the respondent that the candidature of the petitioner be rejected

on the ground that he was medically unfit to hold the post. Admittedly, despite the fact that the petitioner had cleared all other facts thereafter he was failed and declared unfit on the medical ground that he had continuous superficial skin disease which had been described by the respondent as inveterate skin disease.

2. Counsel appearing for the petitioner, however, has submitted before us that the petitioner is now free from the said skin disease and a certificate to that effect is placed on record by the petitioner. He further has submitted that a dermatologist of Safdarjang Hospital had certified and declared the petitioner to be medically fit for the post by giving opinion that the infection in the limbs of petitioner has now healed, leaving behind hyper pigmentation. The said certificate is dated 29th March, 2005 and is annexed as Annexure-P-15 on our record.

3. Taking notice of the aforesaid certificate given by a dermatologist of a Recognised Hospital of Delhi, we are of the considered opinion that the petitioner should now be reexamined medically by another Review Medical Board of the respondents which is called Central Police Force Medical Board. We are further of the considered opinion that a skin specialist shall be a member of the said Medical Board which would be examining the petitioner in terms of this order. We accordingly direct that the petitioner shall be examined by the said Board of which atleast one member shall be a skin specialist and if the respondent does not have any skin specialist with it, a request shall be made to the Head of Department of Dermatology of the All India Institute of Medical Sciences, New Delhi, who on request of the respondent shall spare a Professor of Dermatology from their Institute, who will be made as a member of the said Board.

4. It may be mentioned by us that the above order has been passed by us on the basis of the statement made by the Counsel appearing for the petitioner that the petitioner is now free from the aforesaid skin disease, and upon our noting with anguish from the record of the respondent that although the petitioner was held unfit for appointment on the ground of inveterate skin disease, none of the members of the Medical Board who had thus disqualified the petitioner had any experience in dermatology. This is, to say the least, most unfortunate and we record our disapproval of the manner in which the case of the petitioner has been dealt with by the respondent. He hope that the respondent will desist from committing such mistakes in the future and will bestow earnest consideration to such like cases since the very right to life and livelihood of a person may be adversely affected by the same.

5. The petitioner shall be re-examined for the aforesaid disease by the duly constituted Board and if found fit shall be given appointment by the respondent along with his batch mates. Consequent to his appointment, the petitioner shall be entitled to other benefits, except of course pay and other allowances or any other monetary benefits. The petitioner shall however be entitled to his due seniority and the same shall be awarded to the petitioner from the date on which his batch mates were appointed, according to his panel number in the said

selection list. It shall also be open to the respondent to send the petitioner for requisite training before his order of posting. The Review Board shall be constituted within six weeks from the date of the receipt of the copy of this order.

6. The writ petition stands disposed of in terms of observations and directions.

Copy of this order be given duly to Counsel appearing for the parties.