
(2008) 02 DEL CK 0259
In the Delhi High Court
Case No : WP (C) No. 14995 of 2006

Pramod Kumar

APPELLANT

Vs

The Secretary, Staff Selection Commission and Union of India
(UOI)

RESPONDENT

Date of Decision : 19-02-2008

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21

Citation : (2008) 02 DEL CK 0259

Hon'ble Judges : J.M. Malik, J;A.K. Sikri, J

Bench : Division Bench

Advocate : U. Srivastava, for the Appellant; Monika Garg and Parminder Kaur,
for the Respondent

Final Decision : Dismissed

Judgement

J.M. Malik, J.—An advertisement was published by the respondents for filling up the posts of Sub-Inspectors, through CPF (SI) Examination-2005. The petitioner qualified the written examination, Physical Endurance Test and interview. He was, however, disqualified in medical examination due to "SEVERE HYPERTENSION" vide order dated 17.5.2006. The petitioner was also informed that in case he desired to challenge the findings of the medical examination in an appeal, he could apply for review medical examination.

2. Thereafter, the petitioner filed an appeal for review medical examination as the petitioner was declared medically fit for the post of Sub-Inspector by the Medical Officer, General Hospital, Rohtak vide their medical fitness certificate dated 8.6.2006. On 31.8.2006 the petitioner appeared for review medical examination wherein medical officer directed the petitioner to consume the medicines namely "Inderal"-40 mg 1 tab. and "Alprex"-025 mg 1 tab. and thereafter the petitioner was medically examined. He was again declared unfit due to severe hypertension. The petitioner was orally informed about the same at about 5.30 pm.

3. Thereafter, the petitioner got himself regularly medically checked up in "PGI, Medical Sciences, Rohtak and Safdarjung Hospital, New Delhi on 17.5.2006 and 31.8.2006 respectively. He was declared fit by the above said both the hospitals. Under these circumstances, the present writ petition was filed with the prayer to quash the verbal order dated 31.8.2006 and in case the petitioner is not found fit in medical examination the respondents be directed to appoint the petitioner on alternative post for which the petitioner is medically fit in accordance with relevant rules and instructions on the subject with all consequential benefits.

4. The respondents have contested the instant writ petition. It is explained that the review medical examination of the petitioner was held at Base Hospital, ITBP, New Delhi. The petitioner had applied for recruitment of Sub-Inspector in Central Police Organisation, 2005. The ultimate authority to adjudicate upon the medical fitness or otherwise of a candidate is the Medical Board attached to Central Police Organisation.

5. We have heard the Counsel for the parties. The main argument urged by the Learned Counsel for the petitioner was that the reports from PGI Medical Sciences, Rohtak and Safdarjung Hospital, New Delhi clearly go to reveal that the petitioner is not suffering from any ailment. He stressed that the order passed by the respondents in this context is illegal, unjust, arbitrary and is violative of Articles 14, 16 and 21 of the Constitution of India. He further argued that if the petitioner is not found fit, he be ordered to be posted for another clerical/official job.

6. The Learned Counsel for the petitioner, however, failed to draw our attention towards any rule or regulation which may go to show that he is entitled to some alternative job under the circumstances explained above. What one garners from the above said facts is that the doctors who conducted the review medical examination were sympathetic towards the petitioner and administered those medicines which clearly go a long way to help such like patient. It is surprising to note that even with those medicines the petitioner could not get over the above said ailment. It is now well settled that the evidence of concerned medical Board will always get preponderance over the evidence of all the other government or private hospitals unless the malafides are alleged and proved on the record. The following authorities go to fortify the above said view Union of India (UOI) and Another Vs. Baljit Singh, Union of India (UOI) and Others Vs. Dhir Singh China, Colonel (Retd.), Controller of Defence Accounts (Pension) and Others Vs. S. Balachandran Nair, and Union of India and Ors. v. Keshar Singh 2007 (6) Scale 17. In all these cases the opinions of the Medical Boards were given infinite importance.

7. The writ petition filed by the petitioner is devoid of force and the same is therefore dismissed. However, there shall be no order as to costs.