

(2002) 05 DEL CK 0143

In the Delhi High Court

Case No : Civil Writ Petition No. 1170 of 1999

Satish Chander

APPELLANT

Vs

Delhi Transport Corporation

RESPONDENT

Date of Decision : 14-05-2002

Acts Referred:

Citation : (2002) 05 DEL CK 0143

Hon'ble Judges : Sanjay Kishan Kaul, J

Bench : Single Bench

Advocate : K.C. Mittal, for the Appellant; F.K. Jain, for the Respondent

Final Decision : Allowed

Judgement

Sanjay Kishan Kaul, J.—Rule.

2. With the consent of learned counsel for the parties, matter is taken up for final disposal.

3. The petitioner has been denied the post of Retainer Crew Conduct or on the grounds of medical un-fitness since he is stated to be suffering from leukoderma disease.

4. Learned counsel for the respondent has referred to the Medical standard for candidates selected for appointment in respondent-Corporation where Clause VII provides for Standard of Physical fitness. It is stated in the said clause as under:

"The candidate must be in good health and free from any disability likely to interfere in the efficient performance of duty. It should however, be ensured.

a) That the candidate's hearing in each ear is good and that there is no sign of disease in the ear.

b) That his/her teeth are in good conditions.

c) That his/her speech is without impairment.

d) That the chest is well formed and his chest expansion is sufficient and that his/her heard and lungs are sound.

e) That there is no evidence of any abdominal disease.

f) That he/she is not amputated/epileptic or raptured.

g) That he does not suffer from hydrocele, Hernia, severe degree of vericoeclevaricose veins or piles.

h) That his/her limbs, hands and feet are well formed and developed. And there is free and perfect movement of all joints and there should be no contractor of any part of the body. There should not be motor or sensory loss of any part of body.

i) That there is no co-genital malformation or chronic disease pointing to any impaired constitution.

j) That he/she does not suffer from any inveterate skin disease.

k) That he/she bears marks of effective vaccination and

l) That he/she is free from communicable disease/venereal disease.

m) That he/she should not suffer from any mental disease.

5. Learned counsel for the respondent submits that leukoderma would fall within the category of inveterate skin disease. Learned counsel for the respondent has referred to the dictionary definition of inveterate to mean deep-rooted; of long standing; chronic; confirmed; habitual; difficult to cure. Learned counsel for the respondent has also referred to a book of Hurley on Dermatology. Learned counsel referred to the heading under Veiling where under the heading of Treatment, it is observed as under:

Treatment: Although a number of the therapeutic options are available, treatment of Veiling must be individualized because the efficacy of most of the agents is usually not satisfactory and requires prolonged patient participation and commitment. For some, the best treatment involves the use of cosmetic masking agents or stains. An old home remedy of lightly applying the freshly cut surface of green-black walnut basks can temporarily produce satisfactory staining. When done with too much vigor, the applied area can become irritated to the point of vesiculation. PUVA has been used extensively to achieve regimentation in Veiling."

6. Learned counsel has also referred to Disorders Associated with Veiling mentioned as under:

"Alopecia areata. Insulin-dependent diabetes mellitus. Hypoadrenalism. Hypoparathyrodism. Mucocutaneous candidacies ,Pernicious anemia. Thyroid disease.

7. I have considered the submissions advanced by learned counsel for the respondent. In so far as the other disorders associated with Veiling are concerned, it is nobody's case that petitioner suffers from the same. Similarly a reference to the Treatment stated in the book only shows patient participation. Occurrence of Veiling is not such an uncommon occurrence. However, it is not a communicable disease. It is associated with the coloring of the pigment of the skin as a result of which the skin becomes white. A reference to the Medical standard of the Delhi Transport Corporation would show that standard of physical fitness had to be maintained and the requirement is that candidate must be in good health and free from any disability likely to interfere in the efficient performance of duty. Thus it is only the case where the disease is of such a nature that the candidate is not able to perform his duty efficiently and same will be an impediment in his employment. This cannot be said of the disease from which the petitioner is suffering. The said clause also states, it should be ensured that candidate does not suffer from certain diseases mentioned therein. These diseases are, in fact, all involving the efficiency and performance of the duty of the candidate like the ability to hear, see, general physical health, impairment or communicable disease. It is in this context that sub clause (j) has to be read dealing with any disease. In fact the definition of inveterate itself provides that the disease should be chronic and difficult to cure. Leukoderma is neither communicable nor an incurable disease.

8. It is a matter of common knowledge that people suffering from this disease have been working in different organisations including Govt. offices and have, infact, held high offices. This cannot be a disease which can prevent a person from performing the duties of a conductor.

9. The various diseases mentioned in para-VII of the Medical standard would show that same have to be read with the initial paragraphs dealing with patient's performance of duty. Thus sub clause (j) has to be read in that context and it has to be an inveterate disease which is likely to interfere in the person's performance of duty.

10. In my considered view the disease of Veiling commonly known as Leukoderma cannot be stated to be a disease which would fall within this sub-clause (j) of para VII. I am thus of the considered view that the petitioner has been wrongly denied his appointment on medical grounds.

11. A writ of mandamus is thus issued directing the respondent to appoint the petitioner to the post of Retainer Crew conductor with all consequential benefits of seniority and pay from the date when he would have been so appointed. The needful be done within a period of four weeks from today.

12. Petitioner shall also be entitled to costs of Rs.5000/-.