

(2019) 03 CAT CK 0150
In the Central Administrative Tribunal
Case No : Original Application No. 802 Of 2019

Sh. Vijender Singh

APPELLANT

Vs

Commissioner Of Police And Ors

RESPONDENT

Date of Decision : 19-03-2019

Acts Referred:

Citation : (2019) 03 CAT CK 0150

Hon'ble Judges : Nita Chowdhury, J; S.N. Terdal, J

Bench : Division Bench

Advocate : Ram Niwas Buri

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the applicant.

2. By filing this OA, the applicant is seeking the following reliefs:-

"a. Quash and set aside the Impugned communication No.1099 dated 12.02.2019 issued by the Respondent no.2;

b. Direct the Non-applicants/Respondents to get review of medical examination of the applicant from any of the Central Government Hospital at New Delhi, viz. (1) AIIMS, New Delhi, (2) Safdarjung, New Delhi, (3) Ram Manohar Lohia Hospital, New Delhi.

c. Grant such and further relief as this Hon'ble Tribunal may deem fit and proper in the interest of justice."

3. Today when this matter is taken up, learned counsel for the applicant submitted that applicant is aggrieved by the communication dated 12.2.2019 vide which the applicant has been declared as 'unfit' on account of Cubitus Valgus Deformity, whereas the applicant has been declared fit by two Senior Doctors of different Government Hospitals, New Delhi and, therefore, the applicant is seeking direction to the respondents to review of the medical test of

the applicant in any of the Central Govt. Hospital and also to quash the said communication dated 12.2.2019.

4. This is a case in which the applicant, who applied for the post of Constable (Exe.) Male in Delhi Police, 2016 and selected provisionally for the said post, was called for medical fitness, verification of character & antecedents and final checking of documents and vide letter dated 23.2.2018, he was directed to report to the Medical Superintendent Deen Dayal Upadhyay Hospital on 2.5.2018 for medical examination on 2.5.2018. In compliance of the said letter, the applicant appeared and was medically examined at the said Hospital. The said Hospital declared him 'unfit' on account of Cubitus Valgus Deformity, which decision was informed to him vide letter dated 26.6.2018. The applicant thereafter preferred an appeal for his re-medical examination along with two certificates issued by two different medical specialists. Accordingly, the said request was acceded to and the applicant was directed to report to the Medical Superintendent Lok Nayak Hospital, New Delhi for his second medical examination on 22.11.2018. The applicant appeared and was re-medically examined by Special Medical Board of the said Hospital and was again declared 'unfit' on account of Cubitus Valgus Deformity as informed by the Chairman Medical Board of Lok Nayak Hospital. Consequently, a show cause notice dated 12.2.2019 was issued to the applicant as to why his candidature for the said post in Delhi Police should not be cancelled for the said reasons. The applicant was directed to submit his reply within 10 days of receipt of the said letter. However, instead of filing reply to the said show cause notice, the applicant has filed this OA seeking the reliefs as quoted above.

5. We have raised the query to the learned counsel for the applicant that since the applicant was declared 'unfit' due to Cubitus Valgus Deformity by the second Medical Board constituted at Lok Nayak Hospital again, consequent upon his request made in his appeal, under what rule and instructions, the review of the medical test of the applicant in any of the Central Govt. Hospital, especially either in 1) AIIMS, New Delhi, (2) Safdarjung, New Delhi, or (3) Ram Manohar Lohia Hospital, New Delhi can be directed to be undertaken. The applicant's counsel failed to apprise us any rule and instructions on the same. Since the applicant has failed to show any rule or instructions which provides for review of the decision of the Special Medical Board which was constituted pursuant to appeal preferred by the applicant against declaration of his candidature as 'unfit' on account of Cubitus Valgus Deformity, we do not find any reason to interfere in this matter.

6. This Court further observes that medical certificates obtained by the applicant at his own volition cannot be relied upon for the purpose of granting employment in the disciplined force like Delhi Police. The medical examination report and the certificates issued by the medical board constituted by the Government for this purpose alone can be considered in this regard. This being the factum of the case, this Court is of the opinion that the duly constituted medical board report

alone will prevail over in respect of selection to the post of Constable (Exe.) Male in Delhi Police. It is further relevant to mention that the Hon?ble Supreme Court in the case of Secretary, Ministry of Defence & Ors. v. Damodaran A.V.(Dead) through LRs, 2009(13) SCR 416, held that the Medical Board is an expert body and its opinion is entitled to be given the due weightage while examining the medical issues.

7. In the result and for the foregoing reasons, we do not find any reasonable ground to interfere in this case and as such the present OA stands dismissed being devoid of merits. No costs