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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3522/2017

DELHI SUBORDINATE SERVICE SELECTION BOARD
THROUGH ITS CONTROLLER OF EXAMINATION & ORS

..... Petitioners

Through: Mr. Sumit K. Batra, Advocate.

versus

NAVEEN DAHIYA & ORS

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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24.04.2017

C.M. No.15389/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 3522/2017 and C.M. No.15388/2017

The petitioners have assailed the order dated 16.09.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No.2142/2016.

The issue raised before the Tribunal by the respondent applicants was that they had been measured by the Civil Hospital, Sonapat and the Maharishi Balmiki Hospital, Pooth Khurd, Government of NCT of Delhi,

when they were found to be more than 170 cms. However, when they appeared for the Physical Endurance Test (PET) in respect of candidature for the post of Head Constable, the height of the petitioners was determined as 170 cms, and on that ground, their candidature was rejected. The Tribunal, while placing reliance on the order dated 27.05.2014 in W.P. (C) No.6696/2013, has directed that the height of the applicants may be re-measured by a Medical Board constituted by the petitioners of not less than three experts. In case the height of the applicants is more than or equal to 170 cms, it has been directed that letters of appointment may be issued to them, if found otherwise eligible in accordance with law. If the height is found to be less than 170 cms, the applicants have been denied relief.

The submission of learned counsel for the petitioners is that the order dated 27.05.2014 in W.P. (C) No.6696/2013 was a consent order. He submits that in the present case, the petitioners had not granted their consent in view of the fact that the height of the candidates has been measured on three occasions and the proceedings were also videographed. Learned counsel submits that the videograph is available and has, in fact, been placed on record with the petition as well. He submits that such a direction by the Tribunal will open flood-gates as there would be others who may have been rejected on account of their failing the minimum height criteria.

We have heard learned counsel for the petitioners and perused the impugned order. We are not inclined to interfere with the impugned order for the reason that when the height of the respondents was measured by two other Government authorities, namely by the Civil Hospital, Sonapat and by the Maharishi Balmiki Hospital, Pooth Khurd, Government of NCT of Delhi, their height was determined to be more than 170 cms. Thus, clearly

the respondents were able to create a doubt inasmuch as different Government authorities were reporting different heights of the respondent applicants. In these circumstances, we see no error in the approach of the Tribunal in getting the height of the respondents re-measured by a Medical Board comprising of not less than three experts. No prejudice will be caused to the petitioners if the said course of action is adopted. It is not the case of the petitioners that the height of the respondent applicants, or any of them, had been measured for the first time during the PET and found to be below 170 cms.

Learned counsel for the petitioners has referred to the instructions to candidates for PET/ physical standards for the post in question. The same does not disclose any specific mechanism to be adopted for the purpose of measuring height of the candidates.

In these circumstances, we are not inclined to interfere with the impugned order. Dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

APRIL 24, 2017

B.S. Rohella