



2024:DHC:9051-DB



\$~91 to 93

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 16075/2024, CM APPL. 67503/2024, CM APPL. 67504/2024 & CM APPL. 67505/2024

SAGAR SHARMAPetitioner
Through: Ms. Esha Mazumdar and Ms. Unni Maya.S, Adv.

versus

STAFF SELECTION COMMISSION & ORS.Respondents
Through: Mr. Ashish Dixit, CGSC with Mr. Anubhav Tyagi, GP, Mr. Shivam Tiwari and Ms. Urmila Sharma, Adv.

+ W.P.(C) 16076/2024, CM APPL. 67509/2024, CM APPL. 67510/2024 & CM APPL. 67511/2024

SUNNYPetitioner
Through: Ms. Esha Mazumdar and Ms. Unni Maya.S, Adv.

versus

STAFF SELECTION COMMISSION & ORS.Respondents
Through: Mr. Ashish K. Dixit, CGSC with Mr. Shivam Tiwari, Ms. Urmila Sharma, Ms. Deepika Kalra and Ms. Veeni Kakkar, Adv.
Mr. Deepak Tanwar, GP with Mr. Rajdev Kumar, Adv. for UOI

+ W.P.(C) 16077/2024, CM APPL. 67512/2024, CM APPL. 67513/2024 & CM APPL. 67514/2024

AKSHAY KUMARPetitioner
Through: Ms. Esha Mazumdar and Ms. Unni Maya.S, Adv.



2024:DHC:9051-DB



versus

STAFF SELECTION COMMISSION & ORS.Respondents
Through: Mr. Premtosh K Mishra, CGSC
with Mr. Deepak Tanwar, Mr. Manish
Vashisht and Ms. Sanya Kalsi, Advs.
Mr. Varun Chugh, Mr. Utsav A, Advs. for
R-2 and R-3

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT (ORAL)

%
20.11.2024

C. HARI SHANKAR, J.

1. These writ petitions assail judgment dated 27 August 2024 passed by the Central Administrative Tribunal¹ in OA 3300/2024.

2. The petitioners in these writ petitions applied for recruitment to the post of Constable (Executive) Male in the Delhi Police, as candidates belonging to Economically Weaker Section², in pursuance to a Notification dated 1 September 2023, issued by the Staff Selection Commission³. They were called for a written test, in which they were declared successful, whereafter they also underwent physical examination which, too, they qualified.

3. Thereafter, the candidates were called for a medical

¹ "the Tribunal", hereinafter

² "EWS"

³ "SSC"



2024:DHC:9051-DB



examination. During this medical examination, the candidates were declared unfit as they suffered from defective colour vision. The candidates were subject to a review medical examination, in which, too, they were found to be unfit. The candidates, thereupon, approached the Tribunal by way of various Original Applications⁴. All OAs were disposed of by order dated 22 March 2024, requiring the respondents to afford the candidates one more opportunity for a medical examination.

4. Consequent thereof, the candidates were once again examined by a Review Medical Board on 24 June 2024 and again declared unfit on the ground that they were suffering from defective colour vision. The petitioners, thereupon, moved the Tribunal by way of OAs, from which these writ petitions emanate. They sought a direction to the respondents to appoint them on the basis of their merit, on the ground that defectives colour vision was not one of the disabling qualifications, disentitling the candidates for appointment as constable, as per the applicable advertisement.

5. The qualification mentioned in the advertisement, we may note, reads thus:

“13. Medical Standard:

13.1 The candidates should be in sound state of health, free from defect/ deformity/ disease, vision 6/12 without glasses both eyes, free from colour blindness and without any correction like wearing glasses or surgery of any kind to improve visual acuity. Free from defect, deformity or disease likely to interfere with the efficient performance of the duties. No relaxation is allowed/ permissible to any category of candidates on this count.”

⁴ “OAs”



2024:DHC:9051-DB



6. The contention before the Tribunal was that the vision disability, which was specified as a disabling ailment for recruitment as constable, was “absence of glasses and absence of colour blindness”. They submitted that there was a difference between colour blindness and defective colour vision. The petitioners were not suffering from colour blindness, but only had defective colour vision.

7. Reliance was also placed on guidelines issued by the Ministry of Home Affairs on 18 May 2012, which has also been placed on record before this Court along with the present petition.

8. The Tribunal did not deem the case fit even for issuance of notice. The Tribunal held that the standards prescribed in the advertisement were clear and categorical. The candidates were required to be “free from defect/ deformity/ disease”. The Tribunal understood the expression “defect” as encompassing defective colour vision as well.

9. Aggrieved thereby, the petitioners have approached this Court by means of the present writ petitions.

10. We have heard Ms. Esha Mazumdar, learned Counsel for the petitioners at considerable length.

11. Ms. Mazumdar expatiated at length on the difference between defective colour vision and colour blindness and also cited, in this context, the judgment of the Division Bench of this Court in *Mohd*



2024:DHC:9051-DB



*Faisal v Govt of NCT of Delhi*⁵ and of the Supreme Court in *Mohamed Ibrahim v The Chairman & Managing Director*⁶.

12. There is, no doubt, a difference between colour blindness and defective colour vision. The Tribunal has not held that the petitioners suffered from colour blindness. There is, however, no dispute about the fact that they suffer from defective colour vision.

13. The Supreme Court has held, in several decisions, that the standards of medical fitness which apply to the Delhi Police and other such forces which deal with security and safety of the citizens have necessarily to be stricter and higher than those which apply to recruitment to civilian post. A sequitur to this would be that the qualifications in advertisements applicable to such posts have also to be interpreted in a more stricter fashion than the interpretation which may have been accorded to similar qualifications for recruitment to civilian post.

14. When the persons issuing the advertisement used an expression as wide as “free from defect/deformities/disease” the obvious intent was to exclude persons suffering from any defect/deformity or disease. We also note that the word “defect” is a word of extremely wide expression which can cover any form of bodily defect.

15. There can be no cavil with the finding of the Tribunal that defective colour vision is a defect. As such, the petitioners clearly

⁵ 2006 SCC OnLine Del 978

⁶ 2023 SCC OnLine SC 1779



2024:DHC:9051-DB



suffer from a defect which render them unfit for appointment as Constables in the Delhi Police.

16. Though Ms. Mazumdar contended fervently that the Tribunal ought to have at least issued notice in the OAs, we cannot accept the contention. The question of whether notice should or should not be issued is essentially a matter for the court concerned to decide. Where the court finds that no *prima facie* case for issuance of notice is made out, the Court is well within its competence in deciding the matter on the very first day as we are, indeed, doing in these writ petitions.

17. We, therefore, do not find any cause to interfere with the judgment of the Tribunal.

18. This writ petitions accordingly stand dismissed in *limine*.

C. HARI SHANKAR, J.

AMIT SHARMA, J.

NOVEMBER 20, 2024

dsm

Click here to check corrigendum, if any