

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.78/2002

Tuesday, this the 3rd day of December, 2002

Hon'ble Shri Justice V.S.Aggarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Kartar Chand
s/o Shri Anant Ram
Kitchen Bearer
Northern Railway Central Hospital
Basant Lane, New Delhi

...Applicant

(By Advocate: Shri Gulab Chandra)

Versus

1. Union of India through
General Manager
Northern Railway,
Baroda House, New Delhi

2. Chief Mechanical Engineer
Northern Railway
Baroda House,
New Delhi

3. Chief Personnel Officer
Northern Railway,
Baroda House, New Delhi

...Respondents

(By Advocates: Shri R.L.Dhawan & Shri R.C.Malhotra)

O R D E R (ORAL)

Shri Justice V.S.Aggarwal:

The applicant had been promoted from Group IV to Group III on 21.3.1983. He was working as Ambulance Driver in Northern Railway Central Hospital, New Delhi. On 23.7.1996, the applicant suffered an epilepsy stroke. He is alleged to have remained in hospital. As a result of the said stroke, the applicant was de-categorized in lieu of his Group ^{III} 'C' post. The respondents had offered a Group 'D' post as a Bearer, which the applicant had accepted.

2. By virtue of the present application, he seeks quashing of the order of 8.3.2001 whereby the applicant

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was absorbed/offered the post of a Bearer, and for a direction to provide the applicant an appropriate Group 'C' appointment as per his educational qualifications.

3. Needless to state that in the reply filed, the application has been contested.

4. Some of the facts which are not in controversy can well be delineated. It is not disputed that the applicant was working as an Ambulance Driver in July, 1996 while he suffered an epilepsy stroke. It is also not in dispute that while Group 'D' post has been offered, which has been accepted by the applicant, his pay has been protected.

5. Learned counsel for the applicant contended that in this backdrop when the applicant was holding a post of Group 'C', he should have been given a seat/a post in the Department which should be a Group 'C' post and not a Group 'D' post.

6. Perusal of the facts clearly reveals that before the applicant could lay a claim for Group 'C' post, he should have indeed taken the test, passed the same and thereafter, if possible, in accordance with law come to this Tribunal in this regard.

7. The facts indicated by the respondents show that suitable test for the post of Clerk (Group 'C') had been fixed in the year 1998 on five occasions but the applicant, on being informed, did not take the test. In

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addition to that, he took the test of 2.12.1998 and was found using unfair means during the course of examination. Thereafter, he was permitted another chance to take test on 2.3.2000 in which the applicant was failed to qualify. He had been examined for other vacancy available in Group 'C' in the Northern Railway Central Hospital by Selection Board but was not found fit by the Selection Committee. There is no post available suitable to the applicant in this regard.

8. When such is the situation, we have no hesitation in concluding that the applicant cannot, in the background of facts stated above, claim that he must be given a Group 'C' post, particularly when he takes the test and does not pass or uses unfair means and further has not been found suitable by the Selection Board. Learned counsel for the applicant has drawn our attention to the fact that the result of the written test has not been communicated to him. We direct that the result may be officially communicated to the applicant of the test held on 2.3.2000.

9. Resultantly, we must hold that in the peculiar facts, the prayer made is totally devoid of any merit. OA must fail and is accordingly dismissed.


(S.A.T. Rizvi)
Member (A)


(V.S. Aggarwal)
Chairman

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