

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00044/2017

Date of Order: This, the 1st Day of October, 2019.

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEIHSIAL, ADMINISTRATIVE MEMBER



Santosh Basfore
S/o Late Kalicharan Basfore
S P Colony, Q/No.1017/A, P.O: Alipurduar
Dist: Alipurduar, PIN: 736123

...Applicant.

-Versus-

1. The Union of India,
Represented by the General
Manager, North East Frontier
Railway, Maligaon, Guwahati
– 781 011.
2. The Divisional Railway Manager (P),
N.F. Railway, Alipurduar Junction,
PIN: 736 123.
3. The Chief Medical Director,
N.F.Railway, Maligaon,
Guwahati-781011.
4. The Chief Medical Superintendent
N.F.Railway, Alipurduar Junction-736123.

... Respondents

For the Applicant: Sri G Uddin

For the Respondents: Ms U Das, S C, N.F.Railways

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OA.040/00044/2017

O R D E R (ORAL)

MANJULA DAS, MEMBER (J):

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 the, applicant is seeking following relief(s):-



“8.a Prayer for direction to respondents for reconsideration/re-medical examination by Competent Medical Authority for considering him for fit for original post or any equivalent suitable post other than the watchman and further prayer to allow full pay scale with arrear and grade pay along with other allowances as per law.”

2. The brief facts, as narrated in the OA, are that applicant while working as Tech.(C/F) Grade –II in the pay scale of Rs.5200-20,200/- with Grade Pay of Rs.2400/- at NCB under SSE/C&W, Alipurduar suddenly suffered from seizure disorder because of which he was medically de-categorized and was declared unfit for his original post w.e.f. 28.09.2012 vide CMS/APDJ's L/NO H/19/1(MB) dated 03.10.2012. In the medical certificate the applicant was certified to be fit for job not involving working near running line and moving machineries and never on train running and train passing duties.

Accordingly, as per recommendation of the Screening Committee, applicant was ordered for alternative appointment as Watchman under Sr.DPO/Alipurduar vide memorandum dated 19.03.2014. Applicant submitted representation for re-medical examination of his posting other then watchman or safaiwala. However, the DRM (P), Alipurduar Junction ordered alternative appointment of the applicant as Watchman vide office order dated 04.06.2014 and posted under DRM(P)/APDJ. Applicant joined such post on 07.07.2014 and he was permanently absorbed as such in Pay Band Rs.5200-20,200 with Grade Pay of Rs.1800/-. Subsequently, applicant filed representation against his reduction of pay and for pay protection. The applicant also submitted representations for re-medical examination and restoration to his original post. However, he was relieved from the job of Watchman and now assigned the job of Hardwar Maintenance under the S &T deptt. The applicant's requires for re-medical examination was turned down by the CMS/APDJ vide order dated 11.06.2016 stating that applicant had applied for re-medical examination



after 3 years 7 months whereas he should have applied after 3 months as per rule. Being aggrieved, applicant has filed this OA.



3. The respondents have filed written statement denying the claim of the applicant. According to the respondents, the prayed of the applicant for remedial examination could not be considered on technical ground as he had applied after 3 years and 7 months whereas as per rules he should have applied within 3 months. The respondents had admitted that Grade Pay of Rs.1800/- was granted to the applicant at the time of alternative appointment erroneously but later on the same was corrected and applicant was granted Grade Pay of Rs.2400/-. The respondents also contended that applicant was asked to learn hardware maintenance work purely on temporary measure to avoid strenuous/hard job of Watchman.

4. The applicant has not filed any rejoinder rebutting the contentions made by the respondents in the written statement.

5. We have heard Sri G Uddin, learned counsel for the applicant and Ms U.Das, learned standing counsel for the railway respondents, perused the pleadings and the documents annexed therein.

6. The respondents have admitted that though the pay of the applicant was erroneously fixed at Grade Pay of Rs.1800/- at the time of alternative appointment due to medical de-categorization, the error was corrected and applicant has been granted Grade Pay of Rs.2400/-. Thus, his original pay has been protected in his alternative appointment. The applicant has prayed for re-medical examination stating that he has recovered fully. We are not competent to comment anything on the medical condition of the applicant. The specific contention of the respondents made in the written statement is that that applicant has not applied for re-medical examination within time of three months in fact he has applied after 3 years and 7 months, therefore, his prayer could not be considered. The applicant has not filed any rejoinder negating the aforesaid condition. Learned counsel for the applicant



failed to rebut the aforesaid contention of the respondents.

7. In view of the above observations, we do not find any merit in the OA. Accordingly, same is dismissed.

8. There shall be no order as to costs.



(N. NEHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

/BB/