

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00323/2016

Date of Order: This, the 06th day of March 2020

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)



Shri Manas Ranjan Mohapatro
Son of Sri Uma Charan Mohapatro
Resident of Quarter No. 168/B
Central Gota Nagar, Maligaon
Guwahati – 781011
District – Kamrup (M), Assam.

...Applicant

By Advocates: Sri M.K. Choudhury, Sr. Advocate

-VS-

1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Railways, Rail Bhawan
New Delhi – 110001.
2. The Member Engineering (ME)
Railway Board, 1, Raisina Road
New Delhi – 110001.
3. The Director General
Railway Health Services
Railway Board, 1, Raisina Road
New Delhi – 110001.
4. The Joint Director (Health)
Railway Health Services
Railway Board, 1, Raisina Road
New Delhi – 110001.

5. The General Manager
North East Frontier Railway
Maligaon, Guwahati – 781011.
6. The Principal Chief Engineer
North East Frontier Railway
Maligaon, Guwahati – 781011.
7. The General Manager (P)
North East Frontier Railway
Maligaon, Guwahati – 781011.
8. The Chief Medical Director
North East Frontier Railway
Maligaon, Guwahati – 781011.



...Respondents

By Advocate: Sri H.K. Das, Railway Advocate

Heard on: 10.02.2020

Pronounced on: 06.03.2020

ORDER

NEKKHOMANG NEIHSIAL, MEMBER (A):-

This O.A. was filed by the applicant seeking the following reliefs:-

- "8.1 To call for the entire records from the office of the GM/GM(PP, NF Railways pertaining to the impugned Letters dated 6.6.2016 and 20.7.2016 and;
- 8.2 To quash and set aside the impugned letters dated 6.6.2016 and 20.7.2016, whereby the applicant's promotion as AEN Group B, from Group 'C', has been set at naught by the rejection of the office proposal for relaxation of medical standards in his case (viz. Defective colour vision), as being entirely vitiated in law and contrary to the service

Rules and norms as well as contrary to Para 532 of the IRMM 2000.

8.3 To direct the respondent authorities to give full and complete effect to the applicant's merit position No. 3 in the LDCE/promotion selection exercise conducted by them, by promoting him to any available post of AEN in the non-safety category or such other post as designated in the proposal dated 17.9.2015, and;

8.4 Upon cause/causes being shown, to pass such other order/orders as this Hon'ble Court may deem fit in the facts and circumstances of the case, and upon perusal of the records, and after hearing the parties, to give full and complete relief to the applicant."



2. On the first day of listing dated 22.08.2016, this Tribunal has gone into significant details and passed interim order directing the respondents to keep one post of AEN (Group 'B') vacant with the liberty to the respondents to put up their objection for alteration, revocation or modification of the interim order. After giving adequate opportunities to both the parties, the case was heard on 10.02.2020 and accordingly, hearing was concluded and reserved for orders.

3. The basic grievance of the applicant is that he had appeared in the 30% quota of Limited Departmental Competitive examination on 03.08.2014 and in the final selection list, he has been placed at 3rd position securing total marks of 265.25 out of 350 marks.

However, he has been denied promotion to the post of AEN (Group – 'B') on the plea of defective colour vision. The case has been responded by the Chief Medical Officer vide his letter No. H/254/21/Con-Pt.IX(B)(Loose) dated 17.09.2015 to Director General, Railway Health Services, Railway Board, New Delhi that as specified by PcE/MLG that the applicant could be considered for the posts such as AEN/Works, AEN/G, AEN/Plg, AEN/Br./Design & AEN/Track (HQ) for which the applicant is medically found fit subject to approval for relaxation of medical standard in relation to defective colour vision as per provision in corrected para 532 IRMM 2000. However, the respondent authorities have rejected the proposal for relaxation his medical standard on the ground that the applicant has residual service of about 28 years. To keep an officer at the same post for such a long time would not be in the interest of Railway Administration.



4. The applicant contended that inspite of intimation of Chief Medical Officer, based on the specified posts by the PCE/MLG, the case of the applicant was not recommended by the General

Manager, North East Frontier Railway. He also stated that as per corrected para 532 of the IRMM 2000, there are several posts where he could be accommodated. The Railway Authorities, that is, Railway Board (ME) has very mechanically dealt with the issue of relaxation of medical standards as communicated by North Eastern Railway. The respondent authorities also failed to appreciate that promoting the applicant would not affix him in one post of AEN for the rest of his tenure, rather it would give him further promotional avenues to graduate there from, such as Divisional Engineer or Executive Engineer etc. If the applicant is deprived from promotion at this stage, he would surely stagnate for the rest of his career as a Junior Engineer.



5. The respondent authorities filed their written statement on 24.01.2017. They did admitted the merit status of the applicant in the departmental examination. They also repeated the same ground on which the proposal for relaxation of his medical standard has been rejected by the Railway Board (Member Engineering). At para 9 of the written

statement, the respondent authorities have brought out as follows:-



“Officers posted in Headquarters of Open Line in the Civil Engineering Department are regularly nominated for night foot plate inspection during winter, hot weather foot plate inspection during summer and for monsoon patrolling/safety patrolling inspections. During these inspections, these officers have to travel by engine and are required to be closely associated with track and train working. Apart from this, these officers are also drafted for emergency duties on Railway track in case of accident as and when required. AENs have to perform various duties on track and in association with train working such as:-

- (a) work like replacement of bridge, girders and other bridge working etc.,
- (b) collection of data in relation to bridge design,
- (c) quality audit inspection of track sites,
- (d) inspection of permanent way material and track fittings,
- (e) inspection of welding of rail etc. As a policy, AENs are transferred from Head Quarters office to fields and vice-versa.

Therefore, any relaxation in medical standard for the post of AEN will have a direct impact on safety of travelling public as Engineering Officers are directly associated with working on track and are thus connected to train movements. Compromising with the safety on track can prove fatal for travelling public as well as for officer himself.”

6. They further stated at para 12 as under:-

“Requirement or non requirement of a definite vision in the net promotional avenues has got no nexus with the present claim of the applicant. It is a fact that the applicant is found unfit to be promoted as AEN. It is pertinent to mention here that Civil Engineers in Railways deal with the safety aspects and other works related to operation of trains and precisely for this reason minimum requirement of medical category is made mandatory for officers belonging to technical and safety categories which include Engineers in Civil Engineering Department.”

7. The applicant filed his rejoinder on 14.03.2017. He repeated the same point wherein he can be accommodated in certain posts due to defective colour vision. He also highlighted that the Railway Authority have mistaken the applicant's colour blindness for some more severe disability such as blindness, orthopaedic disability etc. as the works outlined by them as being unsafe/risky do not have any co-relation with applicant's condition.



8. We have perused and gone through the submissions, counter submissions of both the parties. It is observed that the applicant got the merit for promotion to AEN (Group-B) and secured 3rd position in the list of merit candidates. The only problem encountered by him is defective colour vision. The Chief Medical Officer of North East Railway accordingly, recommended the applicant for certain posts as brought out above (supra). The applicant is found medically fit for these posts in relaxation of the corrected para 532 of the IRMM 2000. We also have seen the ground for rejection of his case. It has been communicated to him vide letter dated 06.06.2016 that since the applicant has residual

service of about 28 years, it will not be in the interest of Railway Administration to keep the officer for such a long time. We found that this ground of rejection is weird. Instead of taking the applicant's longer period of service as an asset, the respondent authority seems to be taken him as a liability. It is not clear as to how he could be specifically a liability if promoted to certain posts as indicated by the Chief Medical Officer in his letter dated 17.09.2015.



9. During the hearing, the learned counsel for the applicant also brought to our notice the adjudication of Co-ordinate Bench of CAT, Cuttack Bench in **O.A. No. 235 of 1999 [Pravat Bihari Mohapatra Vs. Union of India and Ors.]**. In this O.A., vide its order dated 20.11.2000. A favourable judgment has been passed by the Co-ordinate Bench stating that Shri K. Prabhakar Rao was given promotion on his being found fit for the post of Group B posts in Survey and Planning and other desk work unconnected with train running, use of trolley on Open Line, though suffering from the same defective colour vision. In this case, the respondents have gone to the Hon'ble High Court of Cuttack. This was dismissed by

the Hon'ble High Court and upheld the order of the Co-ordinate Bench of CAT, Cuttack Bench.



10. Keeping in view of the above, we are of the considered view that the case of the applicant should be appropriately considered by the respondent authorities for the post where he could be suitably accommodated in the promoted post of Group B as recommended by the Chief Medical Officer based on input of PC/MLG dated 26.02.2015. Accordingly, the impugned letters dated 06.06.2016 and 20.07.2016 are hereby set aside and quashed. The respondent authorities are hereby directed to re-consider the case of the applicant as indicated above. This exercise may be completed by the respondent authorities within a period of three months from the date of receipt of this order.

12. O.A. stands disposed of to the above extent. There shall be no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)