

Reserved**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**
CIRCUIT SITTING:GWALIOR**Original Application No.202/00467/2017**Jabalpur, this Thursday, the 5th day of March, 2020**HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER**
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Ku. Soniya Raikwar, S/o Sh. Munna Lal, aged 31 yrs.
R/o House No. 283, K.K.Puri Colony, Piriya Road,
Awass Vikas, Jhansi, Pin 284003,
Mob. 9936658859

-Applicant**(By Advocate –Shri R.N.Joshi)****V e r s u s**

1. Union of India, through General Manager,
Western Central Railway, Jabalpur, INdira Market,
(M.P.) Pin 482001

2. Chief Medical Director, Head Quarter Office,
Western Central Railway, Jabalpur Pin 482001

3. Divisional Railway Manager, (P)
Western Central Railway, Jabalpur Pin 482001 **-Respondents**

(By Advocate –Shri S.K.Jain)

(Date of reserving the order:-14.05.2019)

ORDER**By Ramesh Singh Thakur, JM:-**

This Original Application has been instituted
against the order dated 30.08.2016 passed by
respondent No.3.

2. The applicant has sought for the following reliefs in this Original Application:

“8.Relief sought:



8(i) To issue order or direction for quashing and set aside the impugned order dated 22.08.16 & 30.08.16 where by they declined to consider her matter for re-medical examination and directing to (Respondent No.2) to reconsider her appeal afresh by constituting second medical board to be examined her in person;

(ii) To issue order or direction for considering the pending elaborated appeal dated 17.03.17 to be re-medically examined by the concerned medical authority.

(iii) To issue or direction to appoint as ALP on being medically declared fit within time bound limit.

(iv) To pass any such and further order as deemed fit just and proper in the facts and circumstances of the case.

(v) To award cost and compensation in favour of the applicant.”

3. Precisely the case of the applicant is that the applicant as OBC candidate appeared in written examination conducted by Railway Recruitment Board



on 15.06.2014(Annexure A-3) against employment notice No. 01/2014 in the category of ALP/Technician, held at Jabalpur, in which she was declared passed. The applicant as O.B.C. directed to appear for the Aptitude Test for ALP on 23.12.2014 held at Bhopal, in which she appeared and was declared passed. The applicant was directed by Railway Recruitment Board, Bhopal to remain present on 30.11.2015 (Annexure A-5) for verification of candidature and original certificates/documents at RRB, East Railway Colony, Bhopal in which she remained present and got verified the original certificate/documents as specified in the instructions.

4. Consequent upon selection for the post of ALP in Pay Band Rs. 5200-20200, Grade Pay Rs. 1900/- the applicant was given appointment letter dated 11.03.2016 issued by D.R.M.(P) West Central Railway, Jabalpur subject to pass medical examination for medical category 'Aye One' conducted by Railway doctor & fulfilling all the requisite conditions



mentioned therein, fixing date on 04.04.2016 to remain present in his office. Copy of which is annexed as Annexure A-VI. The applicant was declared unfit in the said category for the post of ALP in operating department vide medical certificate dated 22.04.2016 without assigning any cogent reason thereof. The copy of medical certificate dated 22.04.2016 is filed as Annexure A-VII. Aggrieved with the decision of the medical authority the applicant submitted her application dated 06.06.2016 simply not in the manner prescribed for appeal for want of knowledge followed by another application dated 21.06.2016 & 24.06.2016 duly supported with the medical certificate issued by other competent medical authorities for re-medically examined. The copy of the application are collectively filed as Annexure A-8.

5. In the meanwhile, the applicant was intimated by DRM (P) vide letter dated 12.05.2016 that if she is willing to prefer an appeal against the decision of medical authority for being declared unfit vide

certificate dated 05.04.2016, she shall sent her appeal to DRM(P), Jabalpur supported with evidence/documents latest by 13.06.2016. A copy of letter dated 12.05.2016 is filed as Annexure A-9. Further CMD/WCR/Jabalpur sent a letter dated 08.07.2016 to applicant in reply of her application received on 30.06.2016 wherein DRM (P) Jabalpur was advised that the applicant submitted her appeal directly but not through proper channel and she can submit her appeal through proper channel in the manner as prescribed under the rules along with all the requisite documents. Copy of letter dated 08.07.2016 is filed as Annexure A-11. Instead of advising the applicant, DRM(P) Jabalpur intimated vide letter dated 30.08.2016 that based on the available earlier appeal, the matter was put up before the competent authority who declined to accept the same vide letter dated 30.08.201. The applicant was shocked from deprivation of submission of appeal through proper channel whereas as per rules she should be called to be



examined in person by CMD based on the certificate produced by applicant alongwith appeal.



6. On account of not giving an opportunity to submit an appeal through proper channel & declined by CMD taking Sue Moto decision based on the available earlier appeal and not calling to be re-examined by constituting second medical board however the applicant submitted elaborated appeal dated 18.03.2017 (Annexure A-2) along with certificate, which is not yet decided. Hence this Original Application.

7. The respondents have filed their reply to the Original Application. The respondents in their reply have submitted that the applicant appeared for medical examination of the post of Asst. Loco Pilot for medical category 'Aye One', in which she was declared unfit on 22.04.2016 due to Substandard Vision. As per IRMM 2000, Chapter V, Para 512 (1)(A)- "Candidates for "Aye One" category should have Distant vision of 6/6, 6/6/ without glasses." A

copy of relevant excerpt of IRMM 2000 is enclosed herewith as Annexure R/1. Distant Vision of the applicant was found to be 6/36 in Right Eye 6/18 in Left Eye, accordingly, the applicant was declared unfit in 'Aye One' medical category due to substandard vision.



8. As per extant guidelines of Railway Board, when the examining medical officer found evidence of substandard vision, the findings were put up to Chief Medical Superintendent, Jabalpur. The applicant was asked to appear before a three member committee for deciding her fitness. After careful consideration of the case, the committee decided that as the candidate had substandard vision, hence, was declared unfit in "Aye One" medical category. The recommendations of the medical committee were accepted by CMS/JBP and the certificate was issued declaring the candidate unfit. The applicant was again and again informed to submit her appeal through proper channel but the same was not done by the applicant and instead of submitting

appeal through proper channel i.e. DRM(P)/JBP, she again sent an appeal to the office directly on 24.06.2016. The same was again sent to DRM(P)/JBP vide letter dated 08.07.2016 for submission through proper channel.



9. Finally the appeal dated 24.06.2016 of the applicant was received in the office of CMD/WCR on 19.07.2016. After detailed scrutiny and careful consideration, the appeal of the applicant was regretted by competent authority and the information about the decision of competent authority was conveyed to the applicant vide letter dated 30.08.2016. It is also pertinent to mention here that 2nd appeal or revision is not maintainable as per rules as contained in para IX of Advance Correction Slip No. 1/2014 dated 05.06.2014, a copy of which is annexed as Annexure R-2. It is further revised vide letter dated 31.12.2015 filed as Annexure R-3. Para VIII (a) of the policy reads as under:

“Once the three member Board has taken a decision on the grounds of conditions like hypertension, sub-standard vision and defective colour perception diabetes and the same has been accepted by the respective CMO/MD/CMS/ ACMS in charge of the Unit/Division/Sub-division, any representation/appeal shall be dealt with on the basis of the records and findings of the committee and the candidate will not be subjected to re-examination.”



The decision taken by competent authority on the appeal of the applicant is in accordance with the revised para 522(1) of IRMM. The decision has been taken in accordance with extant rules and standards required for fitness for medical service in the category for which the applicant was sent for medical examination.

10. Heard the learned counsel for the parties, perused the pleadings and the documents annexed therewith.

11. From the pleadings it is itself admitted fact that the applicant had appeared in written examination conducted by Railway Recruitment Board on 15.06.2014(Annexure A-3) against employment notice



No. 01/2014 in the category of ALP/Technician and was declared passed. Thereafter, the applicant was directed to appear for the Aptitude Test for ALP on 23.12.2014 held at Bhopal, in which she appeared and was declared passed. The applicant was directed by Railway Recruitment Board, Bhopal to remain present on 30.11.2015 (Annexure A-5) for verification of candidature and original certificates/documents at RRB, East Railway Colony, Bhopal in which she remained present and got verified the original certificate/document. Ultimately the applicant was selected for the post of ALP and was given appointment letter dated 11.03.2016 issued by D.R.M.(P) West Central Railway, Jabalpur subject to pass medical examination for medical category 'Aye One' conducted by Railway doctor & fulfilling all the requisite conditions mentioned therein.

12. The applicant was declared unfit in the said category for the post of ALP in operating department vide medical certificate dated 22.04.2016 without

assigning any cogent reason thereof. The copy of medical certificate dated 22.04.2016 is filed as Annexure A-VII. It is also admitted fact that aggrieved with the decision of the medical authority the applicant submitted her application dated 06.06.2016 simply not in the manner prescribed for appeal for want of knowledge followed by another application dated 21.06.2016 & 24.06.2016 duly supported with the medical certificate issued by other competent medical authorities for re-medically examined (Annexure A-8).



13. It is also admitted fact, the applicant was intimated by DRM (P) vide letter dated 12.05.2016 that if she is willing to prefer an appeal against the decision of medical authority for being declared unfit vide certificate dated 05.04.2016, she shall sent her appeal to DRM(P), Jabalpur supported with evidence/documents latest by 13.06.2016 (Annexure A-9). It is also clear vide letter dated 08.07.2016 that CMD/WCR/Jabalpur sent a letter to the applicant in

reply of her application received on 30.06.2016 wherein DRM (P) Jabalpur was advised that the applicant submitted her appeal directly but not through proper channel and she can submit her appeal through proper channel in the manner as prescribed under the rules. The competent authority has declined to accept the same vide letter dated 30.08.2016.



14. From the reply of the respondents it is crystal clear that the applicant was declared unfit on 22.04.2016 due to Substandard Vision. As per IRMM 2000, Chapter V, Para 512 (1)(A)- “Candidates for “Aye One” category should have Distant vision of 6/6, 6/6/ without glasses.” A copy of relevant excerpt of IRMM 2000 is enclosed herewith as Annexure R/1. Distant Vision of the applicant was found to be 6/36 in Right Eye 6/18 in Left Eye, accordingly, the applicant was declared unfit in ‘Aye One’ medical category due to substandard vision. From the reply of the respondents it is clear that when the examining medical officer found evidence of substandard vision,



the findings were put up to Chief Medical Superintendent, Jabalpur. The applicant was asked to appear before a three member committee for deciding her fitness. After careful consideration of the case, the committee decided that as the candidate had substandard vision, hence, was declared unfit in “Aye One” medical category. The recommendations of the medical committee were accepted by CMS/JBP and the certificate was issued declaring the candidate unfit. The applicant was again and again informed to submit her appeal through proper channel but the same was not done by the applicant and instead of submitting appeal through proper channel i.e. DRM(P)/JBP, she again sent an appeal to the office directly on 24.06.2016. The same was again sent to DRM(P)/JBP vide letter dated 08.07.2016 for submission through proper channel.

15. Finally the appeal dated 24.06.2016 of the applicant was received in the office of CMD/WCR on 19.07.2016. After detailed scrutiny and careful

consideration, the appeal of the applicant was regretted by competent authority and the information about the decision of competent authority was conveyed to the applicant vide letter dated 30.08.2016.



It is also pertinent to mention here that 2nd appeal or revision is not maintainable as per rules as contained in para IX of Advance Correction Slip No. 1/2014 dated 05.06.2014, a copy of which is annexed as Annexure R-2.

16. It is further revised vide letter dated 31.12.2015 filed as Annexure R-3. Para VIII (a) of the policy reads as under:

“Once the three member Board has taken a decision on the grounds of conditions like hypertension, sub-standard vision and defective colour perception diabetes and the same has been accepted by the respective CMO/MD/CMS/ ACMS in charge of the Unit/Division/Sub-division, any representation/appeal shall be dealt with on the basis of the records and findings of the committee and the candidate will not be subjected to re-examination.”

17. So from this policy once the three member Board has taken a decision regarding the sub-standard

vision, the candidates will not be subject to re-examination.

18. So the application/ appeal has been dealt with as per law, we find no irregularity or illegality in the action taken by the respondent department.



19. In view of the above, the Original Application is dismissed. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member
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(Navin Tandon)
Administrative Member