

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/686/2014

HYDERABAD, this the 31st day of January, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member



B. Surendra Kumar,
S/o. B.A. Vijayam, aged 41 years,
Occ: Chief Commercial Inspector,
O/o. The Station Manager,
Khammam, South Central Railway,
R/o. H.No.10-4-119,
Mamillagudem, Khammam.

... Applicant

(By Advocate: Mr. K.R.K.V. Prasad)

Vs.

1. Union of India rep. by
The Chairman, Ministry of Railways,
Railway Board, New Delhi.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
4. The Chief Medical Director,
South Central Railway,
Rail Nilayam, Secunderabad.
5. The Chief Medical Superintendent,
South Central Railway,
Secunderabad Division,
Chilakalaguda, Secunderabad.
6. K. Kamalakar Babu,
Occ: Travelling Ticket Inspector,
O/o. the Chief Ticket Inspector,
Vijayawada R.S., South Central Railway.

... Respondents

(By Advocate: Mr. N. Srinatha Rao, SC for Railways)

ORDER (ORAL)**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**

The applicant was working as Loco Pilot in the South Central Railway. On 23.08.2006, he was decategorised on medical grounds and was inducted into Commercial cadre. He has also earned promotion to the post of Chief Booking Supervisor. At that stage, the respondents conducted an examination for selection to the post of Assistant Commercial Manager (ACM). The participation is limited to departmental candidates. The applicant participated therein and he is said to have scored to such an extent that he was called for interview. Thereafter, he was subjected to medical examination. It is stated that the Medical Board declared him not suitable for the post of ACM, on the ground that he has already been decategorised. This O.A. is filed, challenging the action of the respondents in treating him as not fit for the post of ACM. He has also challenged the opinion expressed by the Medical Board as well as the panel dated 17.05.2014, which contains the names of selected candidates.

2. The applicant contends that the very action of the respondents, in treating the post of ACM as safety related one is untenable, particularly in view of the clarification issued by the Railway Board through letter dated 13.08.2013. It is also stated that the duties attached to the post of ACM, have nothing to do with safety work and, there was no basis for not selecting him, despite his performance in written test.

3. The respondents filed a detailed counter, opposing the O.A. It is stated that ACM comes under the category of safety related posts and unless

a candidate is medically fit, he cannot be considered for it, notwithstanding the performance in the written test. Reliance is placed on several proceedings and letters issued in this behalf.



4. We heard Sri KRKV Prasad, learned counsel for the applicant and Sri N. Srinatha Rao, learned counsel for the respondents.

5. It is a matter of record, that the applicant was working as Loco Pilot. On being decategorised, he was inducted into the Commercial cadre. He took part in the examination for appointment to the post of ACM. As required under relevant provisions of law, he was subjected to medical examination and he was declared not qualified. The applicant suffered medical disability is beyond any pale of doubt and that is exactly the reason on which he came to be inducted into Commercial cadre.

6. The whole dispute is whether a person with medical disability, can be treated as qualified to be appointed as ACM. Subsidiary to that is the one, as to whether the post of ACM is a safety related one.

7. At the first blush, it may appear that the post of ACM has nothing to do with safety. However, a perusal of the various orders passed and circulars issued by the Railways, clearly indicate that ACM is a safety related post. Recently, the Principal Bench of C.A.T dealt with the very same issue and, took note of the fact that the post of ACM is a safety related one.

8. Learned counsel for the applicant relied upon the order dated 28.03.2007 passed by Principal Bench of C.A.T. in O.A. No.867/2006. The Bench analysed various aspects of visual disability and ultimately took the

view that the applicant therein can be considered for the post of ACM. However, this view is contrary to the judgement dated 9.7.2009 of the Honable Supreme Court in Civil Appeal No.4668/2007. It is not for the Courts and Tribunals to decide the parameters for requirement of health conditions. It is for the concerned administration to stipulate the parameters for this purpose.



9. We do not find any merit in the O.A. and it is accordingly dismissed. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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