

Central Administrative Tribunal
Principal Bench

OA No.574/2020
MA No.736/2020

New Delhi, this the 27th day of February, 2020

Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)

Bhupender Pal, Age 35 years, Group-C
s/o Shri Dal Chand Pal,
Sr. Goods Guard
O/o Station Superintendent,
Northern Railway, Ghaziabad
R/o D-593-A, ST No.32,
Harsh Vihar, Delhi – 93. ...Applicant

(By Advocate: Ms. Meenu Mainee)

Versus

1. General Manager,
Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway,
State Entry Road, New Delhi.
3. Divisional Personnel Officer,
Northern Railway,
State Entry Road, New Delhi.
4. Sr. Divisional Electrical Engineer,
Northern Railway,
EMU Car Shed, Ghaziabad. ...Respondents

ORDER (Oral)

By Hon'ble Ms. Aradhana Johri, Member (A)

Applicant Bhupender Pal while working as Senior Goods Guard with the respondent organization, was

medically de-categorized vide letter No.99

Med/MB/BP/44/17/DLI dated 07.04.2017 [Annexure A-3],

relevant portion whereof is extracted hereunder:-

“On the basis of medical board findings the members of the medical board are of the opinion that Sh. Bhupendra Pal s/o Dal Chand working as Sr. Goods Guard under SS/GZB is unfit as Goods Guard in Medical Category Aye-two but fit for AEMG in medical category Aye-three & below, under restriction of Para 12.9 of IRMM 2000 permanently, where he should not be employed in or near running lines or moving machinery and never in train running and passing duties and should not handle public cash.”

2. He was kept on supernumerary post w.e.f. 07.04.2017. Thereafter he was posted as Section Controller, which he refused. Subsequently he was posted as MCM/EMU Carshed, Ghaziabad. He refused this post on medical grounds. Sr. D.E./EMU declined to take applicant's services and accordingly wrote to the Divisional Personnel Officer, DRM Office, New Delhi vide order dated 07.08.2019 on account of the medical condition of the applicant as below:-

*“Northern Railway
Office of the Sr.C.E. Engineer
EMU, Carshed, NR
Ghaziabad*

*Letter No.232/Elect/EMU/4 Medical
Date: 07.08.2019*

*Division Personal Officer
Office of Divisional Railway Manager,
New Delhi.*

*Sub: In relation to reinstatement of the employee.
Ref: 1. CMS/Delhi letter No.99 -Med/MB/BP/144/17/DLI dated 07.04.2017*

2. Your office letter No. 729-E/34/1954/P-I Loose dated 27.05.2019.

In continuation of the above referred letter no.2 dated 27.05.2019, Sh. Bhupendra Pal S/o Sh. Dal Chand Pal, Sr. Goods, Ghaziabad in accordance with the letter No.99-Med/MB/BP/144/DLI dated 07.04.2017 issued by CMS/Delhi, bring fit in accordance with para 12-9 of JRMM-2000 in the category of Ayee Three & Below, had reported for duty in the pay scale of Rs.9300-34800+GP Rs. 4200/- on 05.08.2019 but in his case, on suffering from Epilepsy ailment, he cannot be taken in service because of the restriction for not being posted in moving machine or running railway line or running train duty in accordance with para 12-9 of IRMM-2000 and because of this reasons, he being sent to you till the further order.

(Sd/-
Sr. D.E. Engineer/EMU”

3. It is the contention of the applicant that as per instant instructions, he should not be employed in or near running lines or moving machinery and or in train ‘running and passing’ duties nor should he handle public cash. It is further contended by the applicant that the post of MCM is also a safety category post, his posting to such post is contrary to the findings of the Medical Board. However, on 22.08.2019 Divisional Personnel Officer, DRM Office, New Delhi, Sr. D.E., NR, New Delhi issued the orders to the following effect:-

- “(i) He is to give post no change to be done.
- “(ii) Salary is to be stopped, if resumption not received.”

4. The applicant made several representations i.e. 26.06.2019, 20.08.2019, 13.11.2019, the last being dated

12.12.2019, requesting the respondents to take him on supernumerary post, but he has not received any reply in this regard.

5. In light of the above, this OA is disposed off with directions to respondents nos. 2 & 3 to pass reasoned and speaking orders within a period of six weeks from the date of receipt of a certified copy of this order, on the representations of the applicant, regarding assigning him a suitable post in accordance with medical de-categorization. It should also be kept in mind that his salary should not be held up for any period of absence which is no fault of his.

6. All pending MAs also stand disposed of. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

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(Vijay Lakshmi)
Member (J)