



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 2391/2014

New Delhi, this the 9th day of January, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Paras Ram Kakkar,
Aged 59 years,
S/o Shri Duni Chand,
Working as Chief Inspector Ticket,
Under Chief Ticket Inspector,
Line, Northern Railway,
Amritsar (Punjab).

.. Applicant

(By Advocate: Shri S.N. Sharma)

Versus

Union of India & Others through:

1. The Secretary,
Ministry of Railway,
Railway Board,
Rail Bhawan, New Delhi.
2. The General Manager,
Northern Railway,
Headquarter's Office,
Baroda House, New Delhi.
3. The Divisional Railway Manager,
Northern Railway,
Firozpur Division,
Firozpur (Punjab).

.. Respondents

(By Advocate : Shri A.K. Srivastava)

**O R D E R (ORAL)****Justice L. Narasimha Reddy, Chairman**

The applicant was working as the Chief Inspector of Ticket (CIT) in the Northern Railway, the 2nd respondent herein. The next promotion is to the post of Assistant Commercial Manager (ACM) (Traffic) (Transportation Commercial). The basis for selection is performance in a written test. Such a test and, thereafter, a supplementary test were held on 21.05.2011 and on 15.07.2011, respectively, and the results were declared on 26.07.2011. The applicant figured among the 17 qualified candidates. The next step is that the qualified candidates are subjected to a viva-voce test, and that it would depend upon their medical fitness. The applicant was subjected to medical fitness test on 16.11.2011 and he was declared medically unfit for Group 'B'.

2. The Railway Board issued an order dated 09.04.2007, to the effect that the relaxation in the context of medical fitness for promotion from Group 'C' to Group 'B' can be granted on case to case basis, depending upon the circumstances. The applicant



submitted a representation, with a request to grant relaxation to him. On a consideration of the same, the 2nd respondent passed an order dated 30.04.2014, stating that the request was considered by various authorities and they have taken a view that the question of relaxation of medical standard does not arise for technical categories. The letters reflecting such opinion were also enclosed. This O.A. is filed challenging the order dated 30.04.2014 and the letters mentioned therein.

3. The applicant contends that the Administration has granted relaxation from the medical fitness to various officers and similar treatment was not accorded to him.

4. Respondents filed a counter affidavit opposing the O.A. It is stated that the Resolution passed by the Railway Board is not in absolute terms, and the requests are to be decided on case to case basis. It is also stated that the post of ACM (Traffic) (Transportation & Commercial) is in Category 'A', for which relaxation is not permissible, in view of the



clarifications issued by the Railway Board on 16.08.1997 and 17.09.1997.

5. The O.A. was heard at length earlier and through order dated 02.07.2015, the Tribunal dismissed the same, by observing that the post in question is in Category 'A', for which relaxation is not permissible. The fact that the applicant was retiring on 31.07.2015, was also taken note of.

6. The applicant filed Writ Petition No.6897/2016. It was pleaded before the Hon'ble High Court of Delhi that the post was of non-safety category; and without taking that aspect into account, the Tribunal has dismissed the O.A., only on the ground that the applicant was retiring on 31.07.2015. The plea was accepted by the Hon'ble High Court and the Writ Petition was allowed. The O.A. was remanded to the Tribunal for adjudication afresh, duly taking into account the Railway Board's letter dated 09.04.2007.

7. After remand, we heard Shri S.N. Sharma, learned counsel for the applicant and Shri A.K. Srivastava, learned counsel for the respondents.



8. The only issue that arises for consideration is as to whether the applicant is entitled to the benefit of relaxation from medical fitness. It is not in dispute that the applicant was one of the 17 successful candidates in the written test. Before a candidate is subjected to viva-voce, his medical condition is examined. On 16.08.2011, the applicant was examined and it was found that he is unfit for the Group 'B' post.

9. It is true that the Railway Board had decided to provide the facility of relaxation of medical fitness for promotion from Group 'C' to Group 'B', for special reasons. It is contained in the letter dated 09.04.2007, which reads as under:

“Sub: Medical exam criteria for various categories for promotion from Group 'C' to Group 'B'.

The matter of relaxation of medical examination standard for Railway employees on promotion from Non-Gazetted to Gazetted posts have been under examination of the Board for some time. After careful examination of the issue the Board has approved the following clause:-

“any one of the conditions may be relaxed in favour of any candidate for special reasons. The relaxation in medical standards in each case should have specific approval of the concerned Board Member of Rly. Board”.

In view of this relaxation, it is for the Zonal Railways to decide the post in the department where the employees can be absorbed on promotion from Non-Gazetted to Gazetted post.



A sub para under para 532 of IRMM, 2000 may be added as per advance correction slip enclosed.”

10. A perusal of the above discloses that the facility of relaxation of medical standards can be extended case-wise and not in general; and such relaxation, wherever found necessary, must be with the specific approval of the concerned Member of the Railway Board. This was incorporated in para 532 of IRMM, 2000.

11. The benefit under the letter dated 09.04.2007 is on individual basis, and not in general, the applicant was entitled to insist on extension of the benefit by citing similar cases. What, however, made the difference was that, on 16.08.1997, the Ministry of Railways clarified that promotion to Group ‘B’ posts in Mechanical (Workshop) Department and Traffic (Transportation & Commercial) Departments, the candidate should be medically examined under para 531(a) and those found not fit, necessarily should not be called for viva-voce. The relevant paragraph of the order reads as under:

“In connection with the above it is advised that Group B officers of Mechanical (Loco, C&W and Workshop)



and Traffic (Transportation and Commercial) Departments are eligible for consideration for promotion to Group A/Junior scale of IRSME and IRTS respectively and then to Sr. scale and Higher grades where the posts are interchangeable. Even at the level of Group B, the requirement of train working or use of trolley on open line by the gazetted officers in Commercial Department and Workshops cannot always be ruled out. It is therefore clarified that in the case of promotion to Group B posts in Mechanical (Workshop) Department and Traffic (Commercial) Department also, the candidates should be medically examined under para 531 (a) and those found not fit, necessarily should not be called for viva voce as already instructed vide Board's letter No.E(GP)/BO/2/8 dated 31.10.1991.

The case of Shri B.M. Singh referred to in your letter dated 28.2.1997 may be disposed of accordingly."

12. There is nothing in the Railway Board's letter dated 09.04.2007 to suggest that the medical fitness in respect of promotion to the Loco and Traffic activities, can be granted. The posts in the Railways are divided into Categories 'A' and 'B', with reference to the medical fitness. While relaxation is provided for posts in Group 'B', no such relaxation is available to those in Group 'A'.

13. In **Lallan Ram vs. Union of India and Another**, decided on 09.01.2014, Lucknow Bench of this Tribunal took note of the fact that the post of ACM (Traffic) is in Category 'A'. The same was affirmed by the Hon'ble High Court of Allahabad in Writ Petition (Service Bench) No.717/2014, through order dated



08.05.2014. The question of relaxation of the medical fitness for that post does not arise.

14. Another aspect is that even if the applicant were to have been granted relaxation of medical fitness, the promotion would have been possible, if only he was successful in viva-voce. Such a step cannot be taken at this stage, since he retired on 31.07.2015. The question of promoting an employee, after retirement, does not arise.

15. Viewed from any angle, we do not find any merit in the O.A. and, accordingly, the same is dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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