

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1389/99

195

T.A. No.

(B)

DATE OF DECISION: 10.08.2000
9.8.2000

Sh. Jhaman Singh

....Petitioner

Sh. Yogesh Sharma

....Advocate for the
Petitioner(s)

VERSUS

UOI through the GM(NR) and Ors

....Respondent

Sh. Rajeev Bansal

....Advocate for the
Respondents

COURT

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Sh. S.A.T. Rizvi, Member (A)

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other Benches of the Tribunal B.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan
Member (J))

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1389/99

14

New Delhi, this the 9th day of August, 2000

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Jhaman Singh, S/O Sh. Sukhi, R/O Line
Par Mohalla, Budh Vihar, Muradabad, (UP)Applicant
(By Advocate: Sh. Yogesh Sharma)

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Medical Officer, Medical Board, Baroda House, N. Rly, Headquarter, New Delhi.
3. The Divisional Railway Manager, Northern Railway, Muradabad (UP)Respondents

(By Advocate: Sh. Rajeev Bansal)

ORDER (Oral)

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

The main grievance of the applicant in the present case is that after he had been declared medically unfit for the duties of the original post he was holding as Driver (Goods) with the respondents on 24.6.92, he has been subsequently examined by private as well as Government Doctors, who have certified that his eye-sight has improved in the meantime. Accordingly, the applicant had made a number of representations to the respondents requesting them to re-examine his case. Sh. Yogesh Sharma, learned counsel has submitted that all that the applicant desires is the relief mentioned in para 8 (i) of the OA, namely, that the direction may be given to the respondents to get the applicant medically examined for his fitness in A-1, A-2 and B-1 and C-2 categories by the third independent medical agency, like the Dr. ¹³ ₁₄

(5)

R.M.L.Hospital, AIMS ^I ~~and~~ other Government Hospital~~s~~ in accordance with the rules. He has submitted that in case ^{releging the P.} the respondents are satisfied after recommendations of ^L ~~the P.~~ such a medical report from an independent medical agency, as nominated by the respondents, and if he is found fit for duty in the post of Driver (Goods), he may be re-appointed in that post with all consequential benefits.

2. We have seen the reply filed by the respondents and have also heard Sh. Rajeev Bansal, learned counsel. The respondents have taken an objection that as the applicant had ^{P.} ~~been~~ suffered injuries in a scooter accident on 29.3.90, he suffered certain eye~~s~~ defects. Based on the report obtained by the applicant and submitted to them, the applicant was accordingly de-categorised. Sh. Rajeev Bansal, learned counsel has submitted that after having the applicant examined by ^a duly constituted medical board in 1991, a decision had been taken to de-categorise him in accordance with the rules. He has, therefore, submitted that the applicant cannot now ask for re-examination of his medical condition at this late stage.

3. We have considered the pleadings and submissions made by the learned counsel for both the parties.

4. It is seen from the facts in the case, that the respondents, by an order dated 24.6.92, had after getting the applicant examined in the Central Hospital, Northern ^{P.}

(16)

Railway, New Delhi on 15.5.92, declared him fit for ~~employment~~ only ~~for~~ ⁱⁿ C-1 and C-2 categories. Thereafter, the applicant had been put on duties other than Driver (Goods) in accordance with his medical categorisation. Sh. Yogesh Sharma, learned counsel has relied on certain certificates issued by ~~the~~ medical Doctors in December, 1994, and certificate dated 25.12.94 from District Eye Relief Society (Regd.), Rampur, that the applicants vision in both eyes is 6/6. The certificate has also stated that the applicant is fit for A-one driving ~~ex~~ with prescribed glasses. The main contention of the learned counsel for the applicant is that after the applicant had been de-categorised for the post of Driver (Goods), he was under treatment and his vision has improved. He has, therefore, contended that the applicant is willing to be re-examined medically by a private Doctor to be nominated by the respondents. He has also relied on the judgement of Hon'ble High Court of Delhi in Naresh Kumar Vs. Union of India & Ors. (CWP-2505/93) (Annexure A-6).

5. Taking into account the aforesaid facts and circumstances of the case, the OA is disposed of with the following directions:-

i) ~~the~~ Respondents are directed to send the applicant to Dr. R.M.L. Hospital or any other recognised Govt. Hospital, with sufficient intimation to the applicant, to appear before the duly constituted medical board for re-medical examination of his eyes, in accordance with the rules. This shall be done as expeditiously as possible and in any case within a period of three months from the date of receipt of a copy of this order.

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17

ii) Depending upon the recommendations of the medical board, the respondents to take further action in accordance with the rules regarding his posting as Driver (Goods).

iii) The applicant shall be entitled to other consequential benefits also in accordance with the rules.
No order as to costs.

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(S.A.T. RIZVI)
MEMBER (A)

Lakshmi Swaminathan

(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

/sunil/