

Central Administrative Tribunal

~ Principal Bench: New Delhi

O.A. No. 1535/1999

New Delhi this the 9th Day of October, 2000

Hon'ble Shri S.R. Adige, Vice Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Tej Pal Singh,
S/o Shri Birbal Singh,
Ex. Gateman,
Under Traffic Inspector
Northern Railway,
Panipat,
Pankha Road,
New Delhi-110 059.

Applicant

(By Advocate: Shri S.K. Sawhney)

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Chief Staff Surgeon,
Divisional Northern Railway,
Hospital,
Queen's Road,
Delhi-110 006.
3. Divisional Railway Manager,
Northern Railway,
Chelmsford Road,
New Delhi.

Respondents

(By Advocate: Shri D.S. Jagotra)

O R D E R (Oral)

Shri S.R. Adige, Vice Chairman (A)

Applicant impugns Respondents order dated 3.6.1999 (Annexure A-1) retiring him from the post of Gateman, upon being declared medically unfit due to malingering for colour vision.

2. We have heard applicant's Counsel, Shri S.K. Sawhney, and respondents counsel, Shri D.S. Jagotra.

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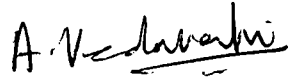
3. Shri Sawhney has invited our attention to the medical report of AIIMS, New Delhi dated 11.12.1997 (Annexure A-3), whereby applicant has been found actually to be suffering from partial colour blindness, and Shri Sawhney therefore contends that it is not a case where applicant has been malingering.

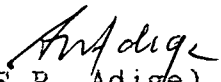
4. While an infirmity of colour blindness may, no doubt, impede applicant in the successful discharge of his duties as Gateman, which is a Safety Category post, respondents have not succeeded in establishing why applicant was not considered for being adjusted against a non safety post in a lower medical category.

5. Respondents seems to have treated applicant as malingering in the periodical vision test, as a result of which he was not being considered for alternative appointment, but in the light of the medical report of the AIIMS referred to above, wherein it is clearly stated that applicant is partially colour blind, we are of the view that applicant's case for alternative employment should have been properly considered by Respondents because no materials have been shown to us to establish that applicant was actually malingering.

6. In this connection our attention has been invited to Respondents' order dated November 1999, enclosed with applicant's rejoinder granting alternative appointment to various railway employees in lower medical category who had been decategorised/incapaciated. This order includes gatemān such as applicant, who have been absorbed against alternative posts in lower medical category.

7. Under the circumstances, this OA is disposed of with a direction to Respondents to consider applicant's case for appointment against a suitable vacancy by means of a detailed, speaking and reasoned order in accordance with rules and instructions under intimation to him within 3 months from the date of receipt of a copy of this order. ~~If~~ pursuant to these directions applicant is found fit for appointment against a suitable vacancy, respondents shall withdraw their impugned order dated 3.6.1999 and regulate the period between 3.6.1999 and applicant's appointment, in accordance with rules, instructions and judicial pronouncements on the subject. No costs.


(Dr. A. Vedavalli)
Member (J)


(S.R. Adige)
Vice Chairman (A)

Mittal