

(14)

Central Administrative Tribunal, Principal Bench

Original Application No.2391 of 1996

New Delhi, this the 3rd day of April, 2000

Hon'ble Mr.Justice Ashok Agarwal Chairman
Hon'ble Mr.V.K.Majotra, Member (Admnv)

Suresh Kumar S/o Sh. Laxmi Narain, R/o Q.No.
M-94B, Railway Colony, Rohtak (Har). - Applicant

(By Advocate - None)

Versus

1. Union of India through the General Manager
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern
Railway, Delhi Division, Near New Delhi
Rly.station, New Delhi. - Respondents

(By Advocate -None)

O R D E R (Oral)

By V.K.Majotra, Member(Admnv) -

This application has been made against order dated 9.8.1996 (Annexure-A-1) passed by the Divisional Railway Manager, Northern Railway, Delhi, respondent no.2, by which the applicant's claim for fixation of his pay in the scale of Rs.775-1025 with effect from 15.6.1987 from the date of his appointment to the post of Medical Attendant as alternative post has been rejected.

2. The applicant was appointed as a Gangman on 17.7.1981 and as Gateman on 17.9.1981 in the pay scale of Rs. 200-250 (Rs.750-940 revised). On 8.2.1984 the applicant was injured in an accident. The medical authorities recommended light duty to the applicant. He was given light duty on the post of Medical Attendant with effect from 15.6.1987. According to the applicant there are two grades in the post of Medical Attendant one is Rs.750-940 and the second is Rs.775-1025. The applicant has pointed out that in a similar case

of Shri Prayag Singh, who was working as a Gatekeeper under S.S. Rohtak, he was given an alternative post of Medical Attendant in the grade of Rs.775-1025 on being declared medically unfit. The applicant's representation against wrong fixation has been rejected by respondent no.2 vide order dated 9.8.1996. He made another representation on 21.8.1996 to respondent 2 which has remained unrepplied till date. The applicant has called Annexure-A-1 as unjust and arbitrary and has sought quashing of Annexure-A-1 and directions to the respondents to refix his pay in the pay scale of Rs.775-1025 with effect from 15.6.1987 with all consequential benefits.

3. The respondents have stated in the counter that the OA is barred by limitation as the applicant has remained silent for more than 8 years. The respondents have referred to the rules of absorption of medically declassified staff in alternative employment as contained in Para 1309 of Chapter-XIII of IREM, Volume-1. The relevant portion whereof is extracted below -

"(i) The alternative post to be offered to a railway servant should be the best available for which he is suited, to ensure that the loss in emoluments is a minimum. The low level of emoluments should not, however, deter officers concerned from issuing an offer if nothing better is available. The Railway servant must be given an opportunity to choose for himself whether he should accept the offer or reject it.

" " "

(iii) For the purposes of this paragraph, an alternative appointment will be considered 'suitable' if the emoluments of the same are at level not more than about

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25 per cent below his previous emoluments in his substantive appointment, or officiating appointment from which he was unlikely to revert.....

Note: "Care should be taken by Railway administration to see that the interests of the staff in service are not affected adversely as far as possible and alternative appointment should be offered only in post which the staff can adequately fill. Their suitability for the alternative posts be judged by holding suitability test/interview as prescribed under the extent instructions."

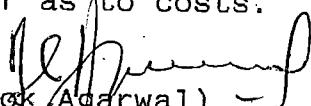
According to the respondents on his medical decategorisation the applicant was adjudged suitable by the committee of officers for the post of Medical Attendant in grade Rs.750.-940 and has correctly been absorbed in that post. The respondents have drawn a distinction with the case of Shri Prayag Singh who after medical decategorisation was considered suitable for alternative job as Hospital Attendant grade Rs.775-1025. The respondents have denied that Shri Prayag Singh was working along with the applicant because the seniority group of Traffic Department in which Shri Prayag Singh was working and Engineering Department in which the applicant was working are separate. The respondents have maintained that the applicant's representation dated 1.11.1995 and dated 19.6.1996 have been rightly rejected on 9.8.1996 vide Annexure-A-1. The applicant has filed a rejoinder as well.

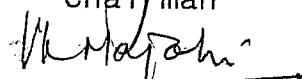
4. We have considered the material available on record. We do not find much force in the respondents' objection regarding limitation. The applicant is a low paid staff, whose representation was entertained and rejected by the respondents on 9.8.1996 vide

Annexure-A-1. We do not find any harm in considering the present case on merits.

5. We have gone through the relevant instructions on absorption of medical declassified staff in alternative employment. The applicant used to work as a Gatekeeper in the scale of Rs.750-940 at the time he was injured in an accident. His prayer has been rejected for grant of pay scale of Rs.775-1025 from the date of his absorption as Medical Attendant with effect from 15.6.1987. There is nothing in the relevant instructions fixing the applicant's salary in the higher scale. The applicant is not in a position to derive any support from the case of Shri Prayag Singh as he was considered suitable for the post of Hospital Attendant which is a shade higher than the post of Medical Attendant and was naturally fixed in the higher scale of Rs.775-1025. Both were working in different seniority groups.

6. Having regard to the relevant instructions and facts of the case, there are no grounds to interfere with the impugned order. The OA is consequently dismissed being devoid of merit. No order as to costs.


(Ashok Agarwal) —
Chairman


(V.K. Majotra)
Member (Admnv)