

Central Administrative Tribunal
Principal Bench: New Delhi

(13)

RA 79/98 in OA 722/97

New Delhi this the 10th day of July, 1998

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

In the matter of:

Union of India through

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
3. The Senior Station Manager,
Northern Railway, Railway Station,
Delhi Jnc. ... Review applicants

(By Advocate: Shri R.L. Dhawan)

Versus

Mahesh Chand s/o Ram Narain
Parcel Porter,
Northern Railway,
Railway Station, Delhi. ... Respondent

(By Advocate: Shri B.S. Mainee)

O R D E R

delivered by Hon'ble Shri T.N. Bhat, Member (J)-

We have heard at length the arguments of the
counsel for the parties on the R.A.

Supra
10.7.98.

2. This R.A. has been filed by the respondents in OA No. 722/97 which was disposed of by the judgement/order dated 6.1.1998 passed by a Bench of the Tribunal consisting of one of us (Sh. S.P.Biswas) and Dr. Jose P. Verghese, the then Vice-Chairman (J).

3. The applicant in the O.A. who was originally working as Rakshak but was medically decategorised and subsequently absorbed as Parcel Porter after being adjudged suitable for that post, claimed consideration for promotion to the post of Ticket Collector against the promotee quota. It was an admitted position that he had appeared in the selection held in the year 1996 and his name also appeared in the list of candidates who had cleared the written test as well as the interview, but he was not sent for medical examination in accordance with the rules and the applicant accordingly apprehended that this was done by the respondents for the reason that the applicant had earlier been medically decategorised under para 573 of the Indian Railway (Medical) Manual.

4. After hearing both the parties the aforesaid Bench of the Tribunal held that the paras 571, 572, 573 and 574 of the I.R. (Medical) Manual were not attracted in the case of the applicant as these paras apply only to those persons who had come out from a mental asylum after being cured.

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5. We notice that in the pleadings of the parties there was not even a whisper about the printed serial no. 1023, as at annexure 2 to the R.A., issued by the Northern Railways which, according to the review applicants, provided that the staff who are declared medically unfit and are absorbed in alternative appointments may be given an opportunity for re-examination after treatment if the executive authority concerned considers them for re-employment or absorption in the original post. The review applicants now rely upon the aforesaid printed circular, stating that despite exercise of due diligence this circular could not be traced out and produced during the pendency of the OA.

6. We are convinced that the ground taken by the review applicants would not be covered by the provisions of Order XLVII Rule 1 CPC read with Rule 17 of the C.A.T.(Procedure) Rules, 1987. Even assuming that the printed serial No. 1023, which is a circular dated 26.12.1996 issued by the Northern Railway would be applicable to the instant case, there is no reason why it was not relied upon and produced during the trial of the O.A. We are convinced that this does not come under the ambit of "discovery of new evidence" which could give the review applicants a cause for filing this review application. That apart, we find that the circular relied upon by the review applicants is only an enabling provision. It enables the executive authority concerned to absorb the medically declassified employee in the original post if it

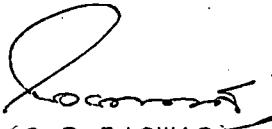
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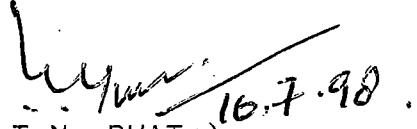
considers him fit for that post. It does not operate as a bar to consider him for promotion to the next higher grade from the alternative post given to him after medical decategorisation.

7. We further find that this R.A. has been filed after the expiry of the period of limitation. The review applicants have filed MA 1024/98 seeking condonation of delay. However, the contents of the aforesaid MA do not disclose any sufficient ground for condonation of delay. We find that condonation of delay for filing the review application has been sought only on the ground that the inter-se correspondence between the officers of the review applicants' department took considerable time. In our view this is not at all a relevant ground for seeking condonation of delay.

8. We also find that MA 1025/98 has been filed by the review applicants seeking stay of operation of the judgement dated 6.1.1998. In view of the fact that the RA itself is without any merit, we find no force in this MA as well.

9. In the result the R.A. as well as MAs 1024/98 and 1025/98 are all dismissed. No costs.


(S.P. BISWAS)
MEMBER (A)


(T.N. BHAT)
MEMBER (J)