

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

CA NO. 2292/94

New Delhi this the 14th Day of September, 1995.

Hon'ble Sh. N.V. Krishnan, Acting Chairman
Hon'ble Smt. Lakshmi Swaminathan, Member(3)

Veerendra Kumar,
S/o Sh. Balveer Singh,
R/o Village Dhanju,
Post Modipuram,
Distt. Meerut,
Pin- 250110.

.....Applicant

(By Advocate Sh. A.K. Bohara)

1. Union of India through:
the Secretary,
Ministry of Railways (Railway Board),
Rail Bhawan,
New Delhi.
2. Deputy Director
Establishment (GR),
Railway Board,
Rail Bhawan,
New Delhi.

.....Respondents

(By Advocate Shri P.S. Mahendru)

Order (Oral)

(Hon'ble Mr. N.V. Krishnan, Acting Chairman)

The applicant appeared in the Engineering Services examination held by the Ministry of Railways. He has been informed — by the Annexure A-1 dated 20.5.94 that the Medical Board which examined him on 22.2.94 had held him to be medically unfit for all the services mentioned therein on account of "Myopia more than 4 D Fundus Exam. shows lattice Degenerative patch in both eyes at extreme periphery". He was further informed by the Annexure A-2 letter dated 3.8.94 that a second Medical Board which examined him had also found him unfit for appointment to the services mentioned therein. As no appeal lies against this Annexure A-2 letter this CA has been filed. The main ground is that

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the manner in which the Medical Board has to be conducted in respect of such candidates is also specified in the rules for the examination. It is alleged that those provisions have been violated.

2. The respondents have filed a reply, denying the allegations.

3. The respondents have annexed as Annexure R-1 the notification in connection with Engineering Services examination, 1993. Appendix II thereto contains the Regulation relating to physical examination of the candidates. We are concerned with Regulation-7 dealing with eye sight and more particularly with ~~para (a) under~~ note-1 thereunder. That reads as follows:-

"Note I

(a) In respect of the Technical Services mentioned at A above, the total amount of myopia (including the cylinder) shall not exceed --4.00 D. Total amount of Hypermetropia (including the cylinder) shall not exceed + 4.00D.

Provided that in case a candidate in respect of the Services classified as 'Technical' (other than the Services under the Ministry of Railways) is found unfit on grounds of high myopia the matter shall be referred to a special board of three Ophthalmologists to declare whether this myopia is Pathological or not. In case it is not pathological the candidate shall be declared fit provided he fulfils the visual requirements otherwise.

(b) In every case of myopia fundus examination should be carried out and the results recorded. In the event of any pathological condition being present which is likely to be progressive and affect the efficiency of the candidate, he shall be declared unfit."

The applicant admits that myopia in his case exceeds 4.00 D. He can be disqualified on this account only for the technical service under the Ministry of Railways. This will not be a

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disqualification for other technical services unless his case has been referred to a Special Board of three Ophthalmologists who declare that this myopia is pathological.

4. The learned counsel for the respondents has produced for our perusal, along with his reply, the report of the second Medical Board (Annexure R-2). While this Board has again mentioned about myopia in item No.14, there is no declaration that this myopia is pathological.

5. We further notice from para (b) of the note that in every case of myopia, fundus examination should be carried out and the results recorded. The applicant has another case that the fundus examination has not been done, as required in para (b) of note (1). We are not satisfied with this allegation. We find from both the reports that the fundus examination has been held.

6. Hence the applicant is entitled to relief on the first ground. As a matter of fact, when the first Medical Board's report was received, the respondents should have issued an appropriate direction to the second Medical Board drawing their attention to the requirements of ~~para (a)~~ note-(1) of Regulation 7 referred to above, which contains the stipulation mentioned in para 3. We are satisfied that the second medical Board report does not declare whether the myopia noticed is pathological or not. A specific certificate in this regard is required in terms of the proviso ~~to para (a)~~ ^{and para (b)}. It is only then that the Medical Board can declare the applicant to be unfit even for the technical services other than the technical services of the Ministry of Railways. As the applicant has been declared medically unfit without obtaining such a declaration the Annexure A-1 and A-2 orders are liable to be set aside and we do so.

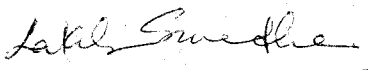
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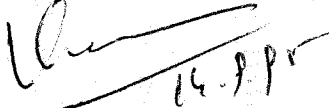
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7. We are of the view that the report of the first Medical Board does not call for any interference. It is the second Medical Board which consisted of three specialists of Ophthalmology who ought to have certified (i) whether the myopia noticed is pathological or not as mentioned in para (a), (ii) if it is pathological, whether it is likely to be progressive and affect the efficiency of the candidate as required under para (b) of the Note. That Medical Board's report does not contain these certificates. We, therefore, direct the respondents to refer the matter back to the second Medical Board along with a copy of the Regulations, referred to above, more particularly Note I to Regulation 7 and direct that Medical Board to give an appropriate report keeping in view paras (a) and (b) of the Note. That Board may, if necessary, re-examine the applicant for this purpose. After receipt of the report from the Medical Board, the respondents are directed to take a fresh decision about the suitability of the applicant for the technical services for which he is otherwise qualified. This shall be done within a period of three months from the date of receipt of this order.

8. In case the applicant is aggrieved by the fresh decision that may be rendered by that Medical Board, it is open to him to seek such remedy in accordance with Law as may be advised. In case the applicant is found fit and is appointed and the applicant has a grievance that the appointment order does not do justice to him, it is open to him to seek remedies at the appropriate stage.

9. O.A. disposed of as above. No costs.


(Smt. Lakshmi Swaminathan)
Member(J)


(N.V. Krishnan)
Acting Chairman

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