CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2306/94

New Delhi this the 7th Day of February, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Moolchand Sharma,
S/o Sh. Dharam Singh,
Mobile Booking Clerk under
D.R.M. Northern Railway
State Entry Road,
New Delhi. ...Applicant

(By Advocate Sh. B.S. Mainee)

Versus

1. Union of India through
the General Manager,
Northern Railway
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi. ...Respondents

(By Advocate Sh. O.P. Kshtariya)

ORDER(ORAL)

Hon'ble Mr. N.V. Krishnan:-

We have heard the learned counsel for the parties. There are only two issues in this case viz. whether the applicant has rendered 6 years' service for regularisation and whether, for this purpose, the medical examination to which he has to be subjected, should be on the basis of the normal standard or on the basis of a relaxed standard.

2. The applicant claims that he has been working as a Mobile Booking Clerk from 15.5.84 to 29.8.90. Thereafter he had remained absent in connection with his wife's illness. The period of his absence has been regulated by the Annexure A-8 order dated 12.7.94

directing that this period be treated as leave without pay. That order also directed that the applicant should appear before the Medical Board.

3. The respondents state that he has been medically examined and he had been found unfit.

4. It is in this circumstance that the OA has been filed for a direction to the respondents to examine the applicant medically according to the relaxed standard of medical examination, in accordance with para-17.14 of the Master Circular, referred to in para 4.22 of the OA as also in the letter of the respondents at Annexure A-11 and that the applicant's services be regularised.

5. In their reply the respondents have contended in para 4.10 that the applicant has rendered service of only 4 years, 4 months and 27 days, whereas the minimum required is six years. It is admitted that he was put to medical examination on the basis of normal standard.

6. We have heard the learned counsel of both sides.

7. It is pointed out by the learned counsel for the applicant that as early as in January, 1994 the Senior Divisional Personnel Officer in the Divisional Office has written to the Head Office that the applicant had worked from 15.5.94 to 29.8.90 as Mobile Booking Clerk (Annexure A-7). This is more than six years required for regularisation period. Further in Annexure

A-11 letter of the headquarters office dated 11.8.94 also, it is stated that the applicant has already completed six years of service. In the circumstances, the respondents cannot take the stand in para 4.10 that the applicant has not rendered six years of service. Therefore, this plea of the respondents is baseless.

8. In so far as the medical examination is concerned, the applicant has reproduced para 17.14 of the Master Circular issued in para 4.22 of his OA. This makes it clear that casual labourers empanelled for regular appoitnment, who had not been medically examined earlier, should be sent for medical examination, which should be of relaxed standard, as prescribed for medical examination of Railway Government servants during service. There is an indirect reference to such an examination in the Annexure A-11 letter of the Headquarters. It is stated therein that the applicant was subjected to medical examination as a fresh candidate whereas he should have been examined as an employee. Admittedly, the applicant has been put to medical examination on normal standards and he has been declared unfit for all categories by the memo dated 29.8.90. In our view the respondents ought to have subjected the applicant to a medical examination strictly in accordance with directions contained in para 17.14 of the Master Circular relating to relaxed standard.

9. In the circumstances, this application has to be allowed with suitable directions.

10. Accordingly, we quash the result of the medical examination conducted on 29.8.90 as stated in the Annexure A-7 memorandum. We declare that the applicant has rendered six years' service and is eligible for regularisation subject to medical examination. We further declare that the medical examination shall be on relaxed standard as mentioned in para-17.14 of the Master Circular referred to in the OA. We direct the respondents to hold a medical examination for the applicant on such relaxed standard and take a final decision on his regularisation, in accordance with law, in the light of the declaration given by us in this OA, within three months from the date of receipt of this order. In the circumstances mentioned above, the applicant shall be permitted by the respondents to work as Mobile Booking Clerk until a final decision is taken by the respondents in regard to his regularisation.

11. The O.A. is disposed of as above. No costs.

(Dr. A. Vedavalli)
Member(J)

7.2.95

(N.V. Krishnan)
Vice-Chairman (A)

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