

Central Administrative Tribunal
Principal Bench, New Delhi.

(8)

DA-1843/89

New Delhi this the 5th Day of May, 1994.

Hon'ble Mr. B.N. Dhoundiyal, Member(A)
Hon'ble Ms. Lakshmi Swaminathan, Member(J)

Shri Om Prakash,
S/o Sh. Tika Ram,
R/o 19, Kawal Park,
Azadpur, Delhi-33.

Applicant

(By advocate Sh. Ashok Aggarwal)

versus

Northern Railway,
Through its General Manager,
Baroda House,
New Delhi.

Respondent

(By advocate Sh. D. S. Mahendru, proxy counsel for
Sh. P. S. Mahendru)

ORDER(ORAL)
delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

The admitted facts of the case are that the applicant qualified for the post of Guard grade Rs. 290-630/- through the Railway Recruitment Board, Allahabad in the year 1983. He was directed to appear before the Divisional Medical Officer, Delhi for his medical examination and was declared unfit in A-2 Medical examination which is requisite for appointment to the post of Guard grade-C. However, vide medical report dated 1.9.1993, he was declared fit for the alternative post of T.C.R. He submitted a letter on 5.9.1983 requesting the respondents for change of category from Guard to TCR. He also requested on 26.9.1993 for another opportunity to appear before the Medical Board. His case is that inspite of his numerous representations

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and publications of news items in the daily newspapers, the respondents have not taken any action to give him appointment.

Numerous opportunities were granted to the respondents to file counter but this was not done. On 21.5.92, the learned proxy counsel for the respondents stated that he did not desire to file counter. On 19.4.1994, at the request of the learned counsel for the respondents, time was granted to enable the learned counsel for arguments. Today, the learned proxy counsel for the respondents moved a misc. application seeking to file counter at this belated stage. In view of the aforesaid background of the case, the M.A. is rejected.

The selection for the post of Guard grade-C was made in 1982 and the medical examination took place in 1983. According to the applicant he intimated his agreement for being considered for the post of T.C.R. on 5.9.1983 and made a representation for second medical examination on 26.9.1983. This O.A. was, however, filed on 3.8.1989. No application for condonation of delay was filed and the reasons for inordinate delay have not been explained.

During the course of arguments, the learned proxy counsel for the respondents showed us a copy of the order dated 25.6.1984 whereby an alternative /for the post of Office Clerk appointment/ was in fact offered to the applicant. The learned counsel for the applicant states that this alternative offer for the post of Office Clerk was never received by the applicant.

As stated above, this application is not

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maintainable on the ground of limitation. However, the applicant is unemployed and belongs to scheduled caste community. It will, however, be open to the respondents to consider the circumstances under which the offer of alternative appointment dated 25.6.84 could not be made available to the applicant and take any action that they deem fit.

The O.A. is disposed of with the above observations. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER(J)

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER(A)

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