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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH.

a.a.No.1931/88 New Delhi: 8.12.93.

CORAM:

Hon'ble Mr. S.R.Adige, Member(A)

Hon'ble Mr.B.S.Hegde, Member(J)

Shri Baje Ram s/o
Sh.Ram Sawroop,
r/o H.No.22, Village-Malikpur,
P.O.Malikpur-Delhi.

.....Applicant.

(None for the applicant)

Versus

1. Northern Railways ,
Baroda House,
New Delhi through its
Gen.Manager,
Northern Railway,
New Delhi.

2. PWI/PQRS, Safdarjung Side,
Ambala (Haryana)

(Sh. B.K.Agarwal, Counsel)....Respondents.

ORDER(ORAL)

Hon'ble Mr.S.R.Adige, Member(A).

None appeared for the applicant though the case was called out twice. Shri B.K.Agarwal appeared for the respondents. As this is a very old case, we are disposing of this case on the basis of the materials on record and after hearing Shri B.K.Agarwal.

2. The applicant Shri Baje Ram claims that he was appointed as a Gangman w.e.f. 21.7.81 with MTP, New Delhi and was transferred to PWI/PQRS, Safdarjung Side, Ambala in 1983. He was sent for medical fitness in B-1 category and was declared unfit in that category on 20.5.87. He states that he requested for another memo for medical test in Category B-2 and C-2, for which provision exists, vide registered letter dated 17.6.87 (Annexure -C), but received no reply and was not allowed to joint duty w.e.f. 20.5.87 and as further representation elicited no response, he was

compelled to approach this Tribunal.

3. The respondents have challenged the applicant's contention in their counter and have stated that the applicant ^{worked} from 21.7.81 to 31.12.82 under IOU, MTP, New Delhi. Again, he was engaged in PQRS Unit, New Delhi Division as a fresh appointee on 15.11.83 and worked there till 19.5.87. On his becoming eligible for temporary status, he was sent for prescribed medical examination in B-1 Category vide memo dated 20.5.87 ^{but was found unfit} and did not report back. The respondents admit that the applicant made a representation dated 17.6.87, but as it was addressed to the DMO, Delhi Main and was not made to the competent authority i.e. AEN and DRM, New Delhi, it was not considered. It is further stated that there is no procedure to give medical memo for Category B-2 or C-3 unless the applicant had worked on such posts. Since the applicant did not turn up on duty, he was not allowed to join.


4. The applicant appears to be a totally illiterate person who is even unable to sign his name because he has affixed his LTIs on the various documents before us. That being the position, some allowance should have been made by the respondents if the applicant did not know that the representation dated 17.6.87 should be addressed not to the DMO, Delhi Main but the AEN or DRM, New Delhi. Therefore, instead of just ignoring the representation, the respondents should have forwarded the representation to the competent authority under intimation to the applicant.

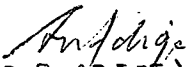
5. In this connection, our attention has also been drawn to the decisions taken in the meeting

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between the Officers on the Administrative Side and Union Representatives on the Northern Railway (Annexure-D). One of the decisions taken is that the casual labourers would not be discharged enmasse, would could not qualify in B-1 category, but an endorsement would be made on the medical memo that they may be passed in the Category in which they are fit. This decision is certainly of some help to the applicant.

6. In the result, we feel that interests of justice will be met in this case if the respondents, after directing the applicant to present himself before them on a particular date and time, order his medical re-examination a Category lower than B-1 Category, and thereafter consider ^{on} employing him/temporary basis against the category for which he is found fit, subject to the availability of work, and/ or the existence of vacancy in such Category. This direction should be complied within three months from the date of receipt of the order. No costs.


(B.S. HEGDE)
MEMBER (J)


(S.R. ADIGE)
MEMBER (A)

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