

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

**

(This the 7th Day of January, 2021)

Hon'ble Mrs. Justice Vijay Lakshmi, Member (Judicial)
Hon'ble Mr. Tarun Shridhar, Member (Administrative)

Original Application No.330/404/2015

Mohammad Imran Ashraf, aged about 25 years, son of Sri Syed Ashraf Ali Rizwi, Resident of 23-K/18 R, Poora Madari, Karamat Ki Chowki, Kareli, Allahabad.

..... **Applicant**

By Advocate: Shri Pradeep Kumar Mishra

Versus

1. The Union of India, through the General Manager, North Central Railway, Allahabad.
2. The Chairman, Railway Recruitment Cell, North Central Railway, Balmiki Chauraha, Nawab Yusuf Road, Civil Lines, Allahabad.
3. The Chief Personnel Officer, North Central Railway, Subedarganj, Allahabad.
4. The Chairman, Railway Board, Ministry of Railways, Government of India, New Delhi.

..... **Respondents**

By Advocate: Shri Rajnish Kumar Rai

ORDER

Delivered by Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)

The applicant by means of the present Original Application (OA) has prayed for the following relief(s):-

“(a) That this Hon'ble Tribunal be pleased to issue a suitable and time bound order or direction to the respondents to allocate the applicant to a suitable Group 'D' post, commensurate with his medical category, on the basis of his having been declared

successful at the selection conducted by the RRC, North Central Railway, Allahabad against Employment Notice No.01/2012.

(b) That this Hon'ble Tribunal be pleased to grant such other and further relief to the applicant as he might be found entitled to in the facts of the case.

(c) That this Hon'ble Tribunal be pleased to award the costs of this Original Application in favour of the applicant, throughout."

2. As an interim relief, the applicant has prayed to direct the respondents to keep vacant, one Group 'D' post till the disposal of this OA.

3. We have heard Shri Pradeep Kumar Mishra, learned counsel for the applicant and Shri Rajnish Kumar Rai, learned counsel for the respondents in physical court and have carefully gone through the pleadings as well as written submissions filed by learned counsel for both the parties.

4. Before advertng to the controversy involved in this case, it appears expedient to have a glance on the relevant rules prescribing for the categories of medical fitness standards in Railways. Both of these rules namely **"Standard Description for preference Medical classification"** **"Medical classification of different categories of Railway Staff"**, (Annexure A-14 and A-15 to the OA.) are reproduced below:-

“Standards Description for different Medical classification

A-1 *Physically fit in all respects. Visual Standards —Distance Vision: 6/6,6/6 without glasses. Near Vision: Sn: 0.6,0.6 without glasses (must clear fogging test) and must pass test for Colour Vision, Binocular Vision, Field of Vision & Night Vision.*

A-2 *Physically fit in all respects. Visual Standards—Distance vision: 6/9,6/9 without glasses. Near Vision: Sn: 0.6, 0.6 without glasses and must pass test for Colour Vision, Binocular Vision, Field of Vision & Night Vision.*

A-3 *Physically fit in all respects. Visual Standards—Distance Vision: 6/9,6/9 with or without glasses (power of lenses not to exceed 2D). Near Vision: Sn: 0.6, 0.6 with or without glasses and must pass test for Colour Vision, Binocular Vision, Field of Vision & Night Vision.*

B-1 *Physically fit in all respects. Visual Standards — Distance Vision: 6/9,6/12 with or without glasses (power of lenses not to exceed 4D). Near Vision: Sn: 0.6, 0.6 with or without glasses when reading or close work is required and must pass test for Colour Vision, Binocular Vision, Field of Vision & Night Vision.*

B-2 *Physically fit in all respects. Visual Standards — Distance Vision: 6/9,6/12 with or without glasses (power not to exceed 4D). Near Vision: Sn: 0.6, 0.6 with or without glasses when reading or close work is required and must pass test for Field of Vision.*

C-1 *Physically fit in all respects. Visual Standards — Distance Vision: 6/12, 6/18 with or without glasses. Near Vision: Sn: 0.6, 0.6 with or without glasses when reading or close work is required.*

C-2 *Physically fit in all respects. Visual Standards — Distance Vision: 6/12, Nil with or without glasses. Near Vision, Sn: 0.6 combined with or without glasses when reading or close work is required.*

Medical classification of different categories of Railway staff

A1	<i>Loco Pilot/ Asst. Loco Pilot Motorman Shunter</i>
A2	<i>Guards/Asstt.Guard/Pilot guard Shunting Master, Pointsman, Traffic porters ASM, Station Master, Station Supt. Traffic Apprentices</i>
A3	<i>Loco Inspector JE/SE C&W</i>

	<i>JE/SE P. Way</i> <i>JE/SE Loco</i> <i>JE/SE Works</i> <i>JE/SE Signal & Telecommunication</i> <i>Traffic Inspector</i> <i>Trolleyman</i> <i>Gatekeeper</i> <i>YM/AYM, Trains Clerk</i> <i>Bridge Inspectors, JE/SE Bridges</i>
<i>B1</i>	<i>Gang men / Trackman</i> <i>Permanent way khalasis</i> <i>Patrolman</i> <i>ESM/Tech Signal</i> <i>Train Examination staff</i> <i>RPF staff</i>
<i>B2</i>	<i>Ticket checking staff</i>
<i>C1</i>	<i>Section Controller</i> <i>Booking Clerk</i> <i>Parcel clerk</i> <i>Station Clerk</i> <i>Commercial Inspector</i> <i>Telephone operator</i>
<i>C2</i>	<i>Others</i>

5. Now reverting to the facts of present OA, it appears that the applicant, in pursuance of employment Notice-01/12 dated 11.08.2012, had applied for the Group 'D' post in North Central Railway. A total number of 1965 of Group 'D' posts were advertised with requisite medical category as mentioned in Para-3 of the aforesaid notification. The applicant appeared in written test and after qualifying the written test, he also qualified the physical efficiency test (PET). Thereafter, he was called for document verification and for medical examination on 25.04.2014.

6. The applicant got himself medically examined at Railway Hospital, Agra where he was found fit for the post requiring the medical category of C-2 standard. The Railway Recruitment Cell (RRC) vide notice dated 01.06.2014, notified that a total number of 1584 candidates have been found fit for being kept in provisional panel for appointment to the post. The applicant was also among those candidates. However, when he saw the result published on the website of Railways, he was shocked to note that on the one hand he was congratulated for being provisionally selected but at the same time in the column of 'Category/post allotted', it was shown that no post available against medical fitness of the applicant. Since the details and particular had not been mentioned in the result, the applicant sought information under Right to Information Act, 2005 vide application dated 07.07.2014 seeking specification about the candidates who had been declared successful with a medical category of C-1 and C-2.

7. The applicant also approached Central Information Commissioner, New Delhi by filing Appeal dated 03.11.2014 under Right to Information Act. The Information Commissioner, vide its order dated 14.12.2016 instructed the Railways to provide information sought by the applicant in accordance with the provisions of Right to Information Act, 2005 within 10 days. The Railways, in compliance of the aforesaid order, furnished information by letter dated 27.12.2016, whereby information

regarding the marks obtained by the applicant and the rank obtained by him were provided. However, the specific information sought by the applicant about the marks secured by other successful candidates, was denied on the ground, that being third party information, it cannot be provided to him as per relevant rules under Right to Information Act. Hence, the applicant has approached this Tribunal by means of the instant OA seeking appointment in the respondent department.

8. It is contended by learned counsel for the applicant that the respondents have not disclosed the relevant information and have not properly formed the final select panel with clean hands, whereas it was incumbent upon them to disclose, as to how many vacancies against the post in medical category of C-1 and C-2 have been filled and what were the marks obtained by the successful candidates.

9. On the aforesaid grounds prayer has been made to issue a direction to the respondents to appoint the applicant to available Group 'D' post commensurate with his medical category of C-2.

10. Per contra, the respondents have opposed the OA by contending that the case of the applicant was considered as per the comparative merit position in C-2 medical category posts available in general community, (un-reserved post), to which category, the applicant belongs and the posts have been filled up in accordance

with the merit position of the candidates. However, total 5 of such candidates including the applicant in C-2 medical category could not be allotted any post due to their lower merit position and non availability of post against said employment notification.

11. It has been further contended by the respondents that the above information about the non availability of post under C-2 medical category had already been communicated vide order dated 29.08.2014 of Chairman, Railway Recruitment Cell, copy whereof has been annexed as R-1 to the counter reply.

12. In the rejoinder affidavit, the applicant has not denied the aforesaid fact. However, he has repeatedly stated that his intention behind seeking certain informations, like the marks obtained by other candidates, how many vacancies against the post of medical category of C-1 and C-2 were filled in, the cut-off marks of candidates who were appointed and what was the merit position and rank of the applicant, was only that the transparency in selection process be kept maintained.

13. We have given our thoughtful consideration to rival submissions of learned counsel for both the parties. The grievance of the applicant is that he has not been provided the details about the successful candidates by the respondents despite an order of the Appellate Authority (Information Commissioner) under Right to Information Act and therefore, he is unable to know the reasons as

to why he has not been selected. On the aforesaid ground he has sought a direction, to be issued to respondents, to give him appointment as per his medical category (C-2).

14. It is well settled legal position that Court cannot give a specific direction to Executive to appoint someone on a post. Moreover, we are neither sitting in Appeal nor as a Reviewing Authority over the order of Information Commissioner under Right to Information Act. It is also noteworthy that the Information Commissioner has directed the respondents to provide information in accordance with the provision of RTI, ACT, 2005, and the Department has already provided the information to the applicant as per relevant rules under RTI, Act 2005. In this regard, the relevant part of the letter dated 29.08.2014, annexed as R-1 to the counter reply, reproduced below may be seen :-

“.....

Md. Imran Asraf passed in C-2 category whereas all C-2 posts available in General community got filled up by candidate above in the merit of Md. Imran Asraf and total five such candidates with C-2 Medical Classification have not been allotted any post in EN No.01/2012.

Since merit is considered primary unit of allotment of posts as per priority of candidates, subject to medical fitness, hence medical classification is not considered first factor for allotment of a post.
.....”

15. On a perusal of the aforesaid order, it is clearly evident that the applicant's position was lower in the merit list in comparison to

those who were selected. Therefore, he along with four others, could not be allotted any post.

16. In view of the above and when the applicant has not even challenged the legality and correctness of aforesaid letter dated 29.08.2014 (R-1) in the present OA., there does not appear any good ground to interfere in the matter. The OA is without any force and is liable to be dismissed. Accordingly, the OA is dismissed.

17. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

Sushil