

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00267/2020

Date of Order: This, the 11th day of December, 2020

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

Shri Sushanta Choudhury
 Aged about 35 years
 Son of Late Jadu Nandan Choudhury
 Resident of Quarter No.DS/4/F, Pandu Rest
 Camp. Kalibari Maligaon
 Guwahati-781011.

... Applicant



- Versus -

1. The Union of India, represented by
 The Secretary Railway Board, Ministry of Railways,
 Government of India
 New Delhi-110006.
2. The General Manager, N.F. Railway
 Maligaon, Guwahati-781011.
3. The Principal Chief Materials Manager
 N.F.Railway, Maligaon, Guwahati-781011.
4. The General Manager(P)
 N.F.Railway, Maligaon, Guwahati-781011.
5. The Deputy Chief Materials Manager
 N.F.Railway, Maligaon, Guwahati-781011.
6. The Senior Personnel Officer/Rectt
 N.F. Railway, Maligaon, Guwahati-781011.

... Respondents.

OA.040/00267/2020

For the Applicant : Sri U.K. Nair, Sr. Counsel
And Ms. N. Shyamal

For the Respondents: Ms. U. Das, Railway counsel

O R D E R (ORAL)

MANJULA DAS, MEMBER (J):

This matter has been taken up through video conferencing.



2. This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunal Act, 1985 seeking for the following reliefs:-

- “8.1 To set aside and quash the impugned memorandum dated 19.11.2020.
- 8.2 To direct the respondent authorities to allow the applicant to continue in his service as Stenographer Grade III by confirming his service against the said post with all consequential benefits.
- 8.3 Alternatively, to direct the respondent authority to appoint the applicant against any other vacant group C post and till such appointment occasions to allow the applicant to continue in his service as Stenographer Grade III.
- 8.4 Cost of the application.
- 8.5 Any other relief/reliefs that the applicant in the facts and circumstances of the case would entitled to.”

3. Heard Sri U.K. Nair, Sr. counsel assisted by Ms. N. Shyamal, learned counsel for the applicant and

Ms. U. Das, learned railway counsel for the respondents.

4. The applicant in the present case, earlier approached before this Tribunal vide O.A. No. 109 of 2014 where this Tribunal vide order dated 10th August 2016 disposed of the said O.A. by directing the respondents as follows:-



"In view of the above observations, the respondents are directed to get the applicant provisional appointment under physically handicapped quota for SC as Stenographer with a condition that within two years of joining he will have to qualify the Stenography test."

5. Thereafter, the applicant appeared for physical test but unfortunately, he could not come out successful. In view of that, the respondent authorities has issued a Memo dated 19.11.2020 by terminating the service of the applicant.

6. Sri U.K. Nair, Sr. counsel appearing for the applicant submitted that applicant did make a representation before the General Manager (P), N.F. Railway, Maligaon, respondent No. 2 on 23.11.2020 with a request to allow him to continue in his service

without break or to offer appointment in another post as per his eligibility, suitability and requirement of administration for filling the post on humanitarian ground as mentioned in Para No. 2 of the provisional appointment order No. E/254/3 Pt.X(Q) dated 28.02.2017. In this context, Sr. counsel has drawn my attention to the letter dated 28.02.2017, Annexure – A/5, page 34 to the O.A., by which the department had intimated the applicant regarding 'Provisional appointment as Stenographer Gr. II on Ph Quota (HH) in Level-4 plus as usual other allowances as admissible time to time'. In the said " Provisional Appointment" letter, at para 2, it is stipulated as under:-



"Your offer of appointment for the post of Stenographer Gr. III in Level-4 on PH Quota is provisional subject to condition that you must qualify in the standard proficiency of Stenographer within 2 (Two) years from the date of appointment to be arranged by the Railway administration. The continuity of appointment as Stenographer Gr. III will depend on qualifying the proficiency by you. In case you could not qualify in the proficiency test within two years you may be offered appointment in another post as per your eligibility, suitability and requirement of administration for filling the post."

7. In view of that, Sr. counsel fairly submitted that applicant be considered for appointment

alternatively commensurate to his eligibility, suitability and requirement of administration for filling up the post.

8. On the other hand, Ms. U. Das, learned railway counsel appearing for the respondents by producing a letter dated 11.12.2020 received from North Frontier Railway submitted that earlier when this Tribunal disposed of the O.A. No. 109/2014 on 10.08.2016, it was directed to the respondents to get the applicant provisional appointment as Stenographer under physically handicapped quota for SC subject to passing of physical test where the applicant though appeared but came out successful. In view of that, the respondent authorities are handicapped to retain the applicant as Stenographer Gr. III.

9. Having heard the learned counsel for the parties, perusal of the pleadings and materials placed before me, I deem it fit and proper to settle/solve the issue so far the applicant is concerned who is physically handicapped (Hearing Impaired) and

already in service and his work was satisfactory as appears in the Confidential Report wherein it is stated that applicant is -

'Very disciplined and obedient to work with high level of trustworthiness; Efficient and Sincere; Very good; Safety conscious; Beyond Doubt; Outstanding; His stenographic work is satisfactory. Since he is a little hearing impairing somehow taking a little problem in hearing. However, his overall workers etc. is satisfactory. Drafting is satisfactory.'



And in view of the above, the respondent authorities may post him in any post alternatively so as to support his livelihood as well as his family.

10. Accordingly, I direct the respondent authorities more particularly respondent No. 2 (The General Manager, N.F. Railway, Maligaon, Guwahati) to dispose of the pending representation dated 23.11.2020 within a period of two months from the date of receipt of a copy of this order. Whatever decision to be arrived by the respondent No. 2 shall be a reasoned and speaking and same shall be communicated to the applicant forthwith. Till such

time, applicant shall not be disturbed from his present place of service.

11. I hope and trust that the respondent authorities will consider the case of the applicant for alternative appointment by taking into account the services rendered by the applicant already under the Railway department and also he is a physically handicapped person.

12. With the above observations and directions, O.A. stands disposed of at the admission stage.

13. There shall be no order as to costs.



**(MANJULA DAS)
MEMBER (J)**

PB