

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/21/280/2020

HYDERABAD, this the 5th day of August, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



Shri M. Srinivasa Prasad, Gr. 'C'
S/o. Late Rangarao Patnaik,
Aged about 51 years,
Occ: Loco Pilot, SC Rly / KZJ.
H.No.25-4-314/2, Vishnupuri Street,
Kazipet, Warangal Urban District,
Telangana State, Pin- 506 003.

... Applicant

(By Advocate: Mr. G. Pavana Murthy)

Vs.

1. Union of India rep. by its
The General Manager (Personnel),
3rd floor, Rail Nilayam, S.C. Railway,
Secunderabad.
2. The Principle Chief Medical Director,
S.C Railway, Rail Nilayam,
Secunderabad.
3. The Chief Medical Superintendent,
S.C Railway, Chilkalguda, SC/Division,
Secunderabad.
4. The Sr. Divisional Electrical Engineer/TRS,
(O) BG, Secunderabad Division,
S.C Railway, Sanchalan Bhavan,
Secunderabad.
5. The Sr. Divisional Personnel Officer,
Sanchalan Bhavan, Secunderabad Division,
Secunderabad.

...Respondents

(By Advocate: Mrs. A.P. Lakshmi, SC for Railways)

ORDER (ORAL)**Hon'ble Mr.B.V. Sudhakar, Admn. Member**

2. The OA is filed challenging the inaction of the second respondent in not referring the applicant to a Medical Board for examining his case of medical de-categorisation on grounds of hearing loss.



3. Applicant while working as Loco Pilot was examined by the Railway ENT specialists for hearing assessment and thereupon referred to Apollo Hospital where it was diagnosed on 28.3.2018 that the right ear of the applicant had moderately severe hearing loss and left ear mild hearing loss (Annexure A-3). Treatment by ENT doctors was advised to be continued. Later, applicant underwent ear surgery on 18.5.2018 and thereafter, depending on progress he was declared fit for duty on 27.6.2018. However, as the hearing difficulty continued, applicant intermittently went on medical leave and sought light duties which was not conceded to. Instead, Medical authorities re-examined the applicant and advised using hearing aids which were in fact issued on 5.9.2018. Applicant claims that since loco pilot post belongs to safety category he is not permitted to perform duties with hearing aid. Applicant finding it difficult to perform duties without hearing aid, requested for constituting a medical board to decide his fitness to work as Loco Pilot. In response, he was referred to ENT Hospital, Koti, Hyderabad where the hearing loss was diagnosed as 21% and based on the same applicant represented on 21.12.2018 for alternative appointment. When there was no response, applicant filed OA21/349/2019 wherein representation made was directed to be disposed, which was accordingly examined and rejected. Aggrieved over the same, OA has been filed.

4. The contentions of the applicant are that with the hearing loss as declared by different medical authorities, he cannot perform the functions of a Loco pilot, which is a safety post. Therefore he sought constitution of a medical board to examine his case for alternative appointment. Applicant has exhausted the leave at his credit and hence he is forced to work as Loco Pilot though he is not supposed to work so even with hearing aid as per 3rd respondent letter dated 22.1.2019. Other employees with better hearing ability than the applicant were medically de-categorised (Annexures A-26 & 27). Applicant cited Rule 47 of PWD Act 1995, IREM 511 (4)(ii) and Para 556 of IRMM to support his contentions.

5. When the case came up for hearing on 24.6.2010 the Ld. Counsel for the applicant submitted that no medical board was constituted to examine the hearing loss of the applicant. If done, the grievance of the applicant would be resolved. Ld. Counsel for the respondents, at the first instance, was therefore directed to ascertain from the respondents as to whether Medical Board was constituted to examine the hearing loss of the applicant. Respondents, in response, issued Ir. dated 23.7.2020 communicating the decision to constitute the Medical Board. However, they did not indicate any date for the Board to meet.

6. Ld. Counsel for the applicant submitted that the applicant being hearing disabled it would be risky to pilot a locomotive, more so in the interest of safety. Even with hearing aid the applicant is not permitted to run the locomotive as per 3rd respondent letter dated 22.1.2019. That being so, the applicant having exhausted leave at his credit is forced to discharge duties as Loco Pilot which the

Ld. Counsel for the applicant claims is neither in organisational interest nor in the interest of safety.

7. For reasons stated at para 6 above, respondents are directed to constitute the Medical Board for deciding the issue in regard to medical de-categorisation of the applicant as well as offer of alternative appointment in consonance with rules and in accordance with law, in a time span of 8 weeks from the date of receipt of this order.

With the above direction, the OA is disposed of, with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(ASHISH KALIA)
MEMBER (JUDL.)

al/evr