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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI.

O.A. 150/86.

Rambir Singh	...	<u>Applicant.</u>
-versus-		
Union of India and others ...		<u>Respondents.</u>

P R E S E N T :

The Hon'ble Shri G.Sreedharan Nair, Vice Chairman.

The Hon'ble Shri P.C.Jain, Member(Admn).

For the applicant- Shri Purshotam Singh, Advocate.

For the respondents -

Date of hearing- 23.4.90

Date of Judgment and Order - 25.4.90

JUDGMENT & ORDER :

G.Sreedharan Nair, Vice Chairman :

The applicant, while working as Shunting Jamadar under the respondents, on medical examination on 17.2.1983 by the Divisional Medical Officer, respondent No.3, was declared unfit as per the proceedings of the 3rd respondent issued on 9.6.1983, copy of which is at Annexure-A. It is alleged by the applicant that the declaration of unfitness was mala fide and that on 15.7.1983 he had obtained a certificate from the Dr Rajendra Prasad Centre for Ophthalmic Sciences that he is fit to resume duties, but despite representations he has not been permitted to rejoin duties. It is stated that he had also requested the Chief Medical Officer, Northern Railways, to arrange his re-medical examination and permit him to join duties, but the 3rd respondent by his communication dated 19.9.83 stood by his earlier proceedings dated 9.6.1983. It is alleged by the applicant that Dr Rajendra Prasad Centre issued another fitness certificate on 8.5.1985, but he was not allowed to resume duties. He prays for quashing the order under which he has been declared unfit and for a direction to the respondents to permit him to join duties as Shunting Jamadar, or in the alternative to some other posts carrying the same scale of pay.

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2. In the reply filed on behalf of the respondents, it is contended that the application is barred by limitation as the challenge is against the proceedings of the 3rd respondent issued on 9.6.1983. It is stated that as the applicant was on unauthorised absence for more than 90 days, in accordance with the rules relating to the employees working in the safety categories, he was sent for special medical examination before the 3rd respondent, ^{who} to declare him medically unfit in A.2, A.3, B.1 and B.2 categories, but fit in C.1 and C-2 by the impugned proceedings dated 9.6.1983 and, accordingly, the applicant was placed on leave duty followed by Extra-ordinary leave for six months without pay. The allegation of mala fide is denied. It is further stated that ^{for} the certificates from the Dr Rajendra Prasad Centre cannot be relied upon as per the Rules, ~~But~~ even then the applicant was medically examined again on 19.9.1983 by the 3rd respondent, ^{who} to confirm his earlier decision. It is stated that though the Rules do not provide for further re-examination, the applicant was again medically examined by the Chief Medical Officer on 17.3.1984 who reported that the applicant has absence of binocular vision and confirmed the reports of the 3rd respondent. The respondents would further state that the applicant was called to the office of the 3rd respondent for adjudging the suitability for an alternate job; but though the applicant acknowledged the letter in that behalf issued on 24.4.1984, he did not turn up.

3. The point for determination is whether the proceedings of the 3rd respondent dated 9.6.1983 as confirmed by the Medical Superintendent in his certificate dated 21.9.1983 are liable to be struck down.

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4. The applicant was working against the post of Shunting Jamadar which is in the safety category. As per the relevant rules contained in the Indian Railways Medical Manual railway employees working in Classes A.1, A.2, A.3 and B.1 and B.2 are to be tested for the Binocular vision, that is, ~~peripheral~~ peripheral vision, and the absence of bonocular vision will disqualify railway employees for his retention in the service in any of those classes. Accordingly, the applicant was subjected to medical examination. The third respondent, the competent authority in that respect found the applicant unfit in the aforesaid classes but only fit in C.1 and C.2 with glasses. It was on that account that the proceedings dated 9.6.1983 ^{was} issued. Though there is an averment of mala fide on the part of the 3rd respondent, it is so ^{vague} ~~weighed~~ that it does not deserve scrutiny. The allegation is that the 3rd respondent "in connivance and in collusion with some persons inimical towards the applicant manufactured the report dated 9.6.1983."

5. It is on record that on the request of the applicant he was re-examined by the Medical Superintendent, but the latter also reported that the decision conveyed in the proceedings dated 9.6.1983 holds good. Again, in view of the appeal submitted by the applicant, the Chief Medical Officer examined the applicant on 17.3.1984 who has also reported that the binocular vision is absent.

6. Counsel of the applicant placed reliance on the

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certificates issued by the Dr Rajendra Prasad Centre for Ophthalmic Sciences on 15.7.1983 and on 8.5.1985 that the applicant is fit to resume duties in Government service. These certificates do not disclose whether any examination was ~~done~~ ^{done} in respect to the standards of vision required for an employee in the safety category. In the face of the certificates issued by the competent and authorised officers, referred to above, we cannot place reliance on the certificates issued by the Dr Rajendra Prasad Centre to discredit the proceedings of the competent and authorised medical officers who had conducted the medical examination having regard to the prescribed norms with respect to the vision.

7. It follows that the prayer of the applicant for setting aside the proceedings dated 9.6.1983 and 21.9.1983 cannot be allowed.

8. It was submitted by the counsel of the applicant that in the proceedings dated 9.6.1983, there is an indication that the applicant would be considered for absorption in alternative post; but it has not yet been done. In the reply filed on behalf of the respondents, it is categorically stated that the applicant was called in the office of the 3rd respondent for adjudging his suitability for an alternative suitable post, but he did not turn up. In support of this statement, the respondents produced Annexure-R/1, copy of the letter dated 24.11.1984 issued to the applicant for this purpose which is seen to have been duly acknowledged by the applicant. There is no averment



in the rejoinder filed by the applicant that he did turn up pursuant to the letter. There is only a bald denial. If the applicant had actually turned up pursuant to the aforesaid direction, he should have explained as to what transpired thereupon. In the circumstances, the respondents cannot be faulted for not considering the case of the applicant for providing him alternative job in Class C-1 or Class C-2.

9. Lastly, it was urged by the counsel of the applicant that in any event, if the applicant was found medically unfit he should have been retired on that ground and retirement benefits should have been allowed. In the absence of any relief in that behalf in the application, we do not think that any direction with respect to retirement benefits is called for. Suffice to say that, in case the applicant is entitled to retirement benefits in accordance with the Rules, it will be open to him to submit a representation for that purpose before the respondents which shall be considered by them in accordance with law.

10. Subject to the aforesaid observation, we dismiss the application.

25/4/1990
(P.C.Jain)
Member (Admn)

25-4-1990
(G.Sreedharan Nair)
Vice Chairman.

S.P.Singh/
24.4.90.