

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1189/93
T.A. No.

199

DATE OF DECISION 28-5-93

<u>Shri Bachan Singh</u>	Petitioner
<u>Shri Ashok Aggarwal</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Ors.</u>	Respondent
Advocate for the Respondent(s)	

CORAM

The Hon'ble Mr. N.V.Krishnan, Vice Chairman(A).

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

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

ORDER (ORAL)

(Hon'ble Shri N.V.Krishnan, Vice Chairman(A))

The applicant is stated to be a daily rated employee since 1980. In pursuance of an order of the Supreme Court, the applicant's case for regularisation was considered. He was selected by the Staff Selection Board. Therefore, he was required to undergo medical examination. As he was declared to be suffering from Pul. T.B. and declared to be medically unfit for service, his services were terminated by the impugned A.n.A Memo dated 24-6-91 on the aforesaid ground. He is aggrieved by this order and hence he has filed this O.A.

2. When the matter came up today for admission, we asked the learned counsel for the applicant whether the applicant had availed himself of the opportunity given to him by the second para of the impugned Memo dated 24-6-91 which reads as follows:-

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"In case he intends to represent against the medical report of the Staff Surgeon, he/she may do so within 30 days for re-examination by the Medical Board. He/She may get himself/herself medically examined by at least two medical officers possessing M.B.B.S Qualification and produce report of not suffering from the disease as contended by the Staff Surgeon."

In ~~the~~ reply, the learned counsel for the applicant drew our attention to the representation dated 15-7-91 (An-D) made by him enclosing a medical certificate of the Lok Nayak Jaya Prakash Narain Hospital, New Delhi. It is stated in the representation that he had got himself treated and cured and got himself X-rayed from Govt. hospital and that he is absolutely fit now. He enclosed therewith two certificates; one from the LNJPN Hospital (An.E) and the other from the Shahdara T.B. Hospital and requested that, ^{he} be taken back on duty. No reply was received. The learned counsel ~~also~~ drew our attention to a judgement rendered in similar cases by the Principal Bench at (An.H). He also states that procedure followed is contrary to An.G instructions regarding medical examination for first appointment. He also pointed out that the subsequent representation dated 6-5-93 at (An-F) has not been replied to.

4. We have considered the matter carefully on the question of admission and heard the learned counsel for the applicant. The judgements of the Principal Bench referred to by the learned counsel for the applicant are not applicable ~~to as~~ in the present case as he has not availed himself of the opportunity given to him by para 2 of the impugned Memo reproduced above.

5. In the An.D representation dated 15-7-91, the applicant did not indicate that he was willing to submit himself for an examination by the Medical Board, as mentioned in para 2 of the Memo dated 24-6-91. In the

circumstances, we find that, *prima facie*, no case is made out for our interference. The O.A. therefore is dismissed. We however make it clear that this order shall not stand in the way of the applicant from making any further representation to the authority concerned or in the way of the latter from consideration ^U ~~of~~ such representation, if filed.

B.S. Hegde
(B.S. HEGDE
Member (J).

N.V. Krishnan
28.5.3
(N.V. KRISHNAN)
Vice Chairman (A)