

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 29th day of February, 2000.

Original Application no. 1022 of 1996.

Hon'ble Mr. Rafiq-Uddin, Judicial Member

Hon'ble Mr. M.P. Singh, Administrative Member

Akhilesh Kumar Singh,
S/o Samsher Bahadur Singh,
R/o Village & Post Mahlipur,
Badagaon Via, Khadsra,
Distt. Ballia.

... Applicant.

C/A Shri A.K. Updhyaya

Versus

1. Union of India, through the Secretary,
Ministry of Railways, New Delhi.

2. The Divisional Railway Manager,
Central Railway,
Bhopal.

3. The Divisional Railway Manager,
(Personnal) Central Railway,
Bhopal.

... Respondents.

C/R Shri G.P. Agrawal.

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O R D E R

Hon'ble Mr. M.P. Singh, Member-A

The applicant ~~his~~ is aggrieved by the action of the respondent no. 3 withholding his appointment on the post of Electrician.

2. The brief facts of the case are that the applicant appeared in a written examination conducted by the Railway Recruitment Board, Bhopal, for appointment to the post of Electrician in the pay scale of Rs. 950-1500. After passing the said test he appeared before the Interview Board and, thereafter, the applicant was directed to appear for medical examination on or before 07.03.1996. The applicant appeared before the medical board and produced the handicapped certificate. The certificate was not considered by the medical board and the applicant was^{not} placed in medical B-I category.

3. The applicant filed a representation on 17.05.1996 and made a request for medical of B-II category for the said post. According to him respondent no. 3 has not considered his representation and has not passed any order thereon.

4. The applicant has stated that the Railway Recruitment Board vide its letter dated 03.02.1996 recommended his name for appointment to the post of electrician. The ~~He~~ was given the memo for medical examination of B-I category. The medical officer did the medical examination of B-I category and

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declared the applicant unfit. He was informed by the medical officer that the applicant has been selected for the post of electrician for which medical examination of B-II category is needed but by mistake the office has issued wrong memo for medical examination of B-I category. He suggested to get memo for medical examination of B-II category. On the advice of the medical officer the applicant again met the concerned officer in the office of respondent no. 3 and requested him for memo of medical certificate of B-II category for which he was selected. The concerned officer refused to issue fresh memo for medical examination of B-II category. Hence the applicant has filed this O.A. and has prayed that the respondent no. 2 and 3 be directed to issue appointment letter to the applicant for the post of Electrician and the respondent no. 3 be directed to get him medically examined again for B-II medical category by giving benefit of handicapped certificate.

5. The respondents in their counter affidavit have stated that the Tribunal does not have jurisdiction to relax the medical standard for the post of Electrician in TRS Cadre and ^{can not} issue directions for the appointment of the applicant. Even if the claim of the applicant that the requirement for the post of Electrician is medical B-II category and he has been declared successful in B-II category is accepted, it does not amount ^{to} ~~selection~~ or create any vested right for the appointment. As per the

The Supreme Court in its judgment dated 30.04.1991 in the case of Shankarsan Das Versus Union of India, reported in AIR 1991 (Vol 78) page 1612 has held as under:-

"Regulation 8 prescribes that the candidates would be considered for appointment to the available vacancies subject to provisions 9 to 12 and Regulation 13 clarifies the position that a candidate does not get any right to appointment by mere inclusion of his name in the list. The final selection is subject to satisfactory report on the character, antecedent and suitability of the candidates. We, therefore, reject the claim that the appellant had acquired a right to be appointed against the vacancy arising later on the basis of any of the rules."

The respondents have also stated that as per Railway Board's Medical Manual, a candidate must pass B-I medical category test for appointment to the post of electrician. Accordingly the applicant was sent for medical test for B-I category but he had failed in medical test. They have admitted that B-II medical category was wrongly advertised in the newspaper. According to them Medical Standard can not be relaxed as it would set a new precedent and would also risk the safety of the Railway users.

6. Heard Shri A.K. Updhayaya learned counsel for the applicant and Shri G.P. Agrawal, learned counsel for the respondents and perused the record.

7. From the facts mentioned above it is not in dispute that the Medical standard required for appointment to the post of Electrician is B-I Medical category. The plea taken by the applicant that the

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notice published in the news paper by the Railway Recruitment Board for the post of Electrician, indicated B-II medical category can not be accepted as it does not vest a legal right to the candidate for the appointment to the said post. The Railway Board Manual specifically lays down that a candidate must pass medical test in B-I category. The relaxation in Medical Standard from B-I to B-II category as requested by the applicant would adversely affect the safety of the Railway users. Moreover, the applicant has presented himself before the Medical Board for B-I category test knowing fully well that this is the requirement for appointment to the post of Electrician.

8. In the light of what has been stated above and the facts and circumstances of the case, this OA does not merit any consideration and the same is, therefore, dismissed. No order as to costs.

Member-A

D. M. Juddin
Member-J

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