

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

WEDNESDAY, THIS THE 5th DAY OF APRIL, 2006

ORIGINAL APPLICATION No.679/1998

HON'BLE SHRI K.B.S. RAJAN ... MEMBER (J)

HON'BLE SHRI A.K. SINGH ... MEMBER (A)

Paritosh Kumar Yadav,
S/o Ram Tej Yadav,
Resident of Quarter No.79, Type III,
Sector -1, B.H.E.L. Colony,
Jhansi.

....

Applicant

(By Advocate Shri S.N. Verma)

Vs.

1. Union of India,
through Secretary,
Ministry of Railway,
New Delhi.
(Chairman, Railway Board).

2. Railway Recruitment Board of
Ahmedabad,
Through its Chairman.

3. General Manager,
Western Railway,
Church Gate,
Bombay (Mumbai).

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Respondents

(By Advocate Shri P. Mathur, Standing Counsel for Railways)

ORDER

Hon'ble Shri K.B.S. Rajan, Member (J):

The applicant who came victorious in the written examination for the post of Signal Inspector Gr.III, could not however, qualify in the medical examination and as such was not offered the post of Signal Inspector Gr.III. When he sought an alternative appointment on the strength of the provisions contained in order dated 23.11.1979, by quoting a precedent in the case of one Shri Dinesh Kumar, the respondents have rejected his claim on the following twin grounds:

(a) the concession of alternative employment is admissible only in the case of SC/ST vide order dated 22.11.1985;

(b) Shri Dinesh Kumar was a beneficiary of this concession as he belonged to SC category.

2. Arguments heard.

3. The applicant has relied upon the decision of this Tribunal vide order dated 21.5.2004 in O.A. No.361/1997, which refers to the said circular dated 23.11.1979 and as per which O.A. was disposed of with the direction to the respondents concerned to arrange fresh medical examination of the applicant with a view to ascertaining his fitness in the lower alternative category as per Rules.

4. The provision as contained in circular dated 23.11.1979 is not a newly introduced concession, but has been in existence in the Railways even much earlier and in any event with effect from 26.10.1962 when the Railway Board had issued the following order:-

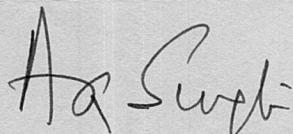
“On a review of the matters, the Board in partial suppression of the instructions contained in Board’s letter No.E(NG)/58 RC1/25 dated 10.7.1958 (copy enclosed for ready reference have decided hat if a candidate selected for a technical category fails in the prescribed Medical Examination he may be considered for an alternative technical Category provided he possess the requisite qualification and there is a shortage in that category qualification and thee is a shortage in that category subject to his being medically fit for that category.”

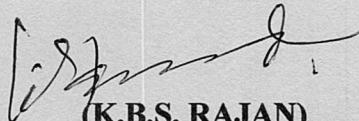
5. The purpose of the above concession is evident when the recruitment authorities find a particular person efficient and fit to hold a particular post subject only to medical examination and if in the medical examination the selected person could not qualify, the Railways did not want to lost his services as he otherwise was found efficient. Accordingly, the decision was that the individual could be taken in service in the alternative employment subject to his qualifying in the medical standard meant for that particular post. This order cannot distinguish between general category and SC/ST categories. So far as the order dated 22.11.1985 is concerned, the same is only a clarification presumably on the reference to a query raised in respect of SC/ST. The

reference therein relates to extension of the provisions of the circular dated 23.11.1979 in respect of posts for which a common recruitment examination has taken place. As such, the said order dated 22.11.1985 cannot create any ~~letter~~ ~~flitter~~ in the circular dated 23.11.1979 so as to restrict the concessions as available only for SC/STs. In other words, the order dated 23.11.1979 is with a view to maintaining uniformity in respect of all categories and as such, the concession contained therein should be available for general category candidates as well.. In any event, vide order dated 21.05.2004 in O.A. No.361/1997, this Tribunal has allowed the O.A. filed by Shri Sunil Kumar Sharma (obviously not an SC as there has been no mention) and the same order was held good in respect of the applicant in this O.A. also.

6. In view of the above, the O.A. succeeds. The respondents are directed to arrange for a fresh medical examination of the applicant with a view to ascertaining his fitness in any of the lower alternative category as per Rules within a period of four months from the date of receipt of a copy of this order and if he is found fit, the individual shall be issued with necessary offer of appointment in the grade in respect of which he has been found medically fit.

No order as to costs.


(A.K. SINGH)
MEMBER (A)


(K.B.S. RAJAN)
MEMBER (J)

psp.