

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 13TH DAY OF MAY, 2002

Original Application No. 74 of 2001

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.C.S.CHADHA, MEMBER(A)

Brij lal, son of Sri Pudai,
Vill. Jamalamau, P.O. Bedhan
Gopalpur, Tehsil Kunda, district
Pratapgarh.

... Applicant

(By Adv: Shri S.S.Sharma)

Versus

1. Union of India owning and representing Northern railway notice to be served to the General manager, Northern Railway Headquarters office, Baroda House, New Delhi.
2. The Chief Medical Director, Northern railway, Northern Railway Central hospital, New Delhi.
3. The Chief Medical Superintendent, Northern Railway, Northern Railway Divisional Hospital, Lucknow.
4. The Divisional Railway manager, Northern Railway, D.R.M.Office Lucknow.
5. The Asstt. Engineer, Northern railway, prayag

... Respondents

(By Adv: Shri A.K.Gaur

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has challenged the orders dated 28.12.1999 and 14.2.2000(Annexures 1 and 2) by which medical opinion has been given that the applicant may be continued in service till his retirement and can be employed for a job where a visually handicapped persons can be worked. Applicant has also prayed for a direction to

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the respondents to grant appointment to his eldest son on compassionate ground and further to pay Rs 25,000/- *of compensation* for harassment and torture.

The facts giving rise to this application are that applicant was appointed as Gangman on 21.11.1979 under the P.W.I, Northern Railway Prayag. In 1998 applicant was transferred from Lal Gopalganj to Unchahar. The applicant had some trouble in eyes. In 1998 the trouble became serious. On 4.5.1999 he was directed for medical examination by the Chief Medical Superintendent, Northern Railway, Lucknow. On medical examination the opinion was given as stated above that he may be continued on a job suitable for visually handicapped employee and he has not been recommended for retirement.

The counsel for the applicant has however, submitted that applicant is unfit and handicapped, he should be retired and respondents are acting in an arbitrary and illegal manner in violation of the Railway Board's circular letter dated 18.1.2000.

We have considered the submissions of the counsel for the applicant. However, we are of the opinion that applicant cannot claim any direction to respondents, to retire him from the services, from this Tribunal. It is well accepted that now even persons without eye sight are appointed within the handicapped quota and provided suitable job, if the respondents *have* preferred to keep the applicant in service, the applicant cannot have any grievance except for that he may be provided a suitable job on which he may work.

The second paragraph of the Railway Board Circular dated 18.1.2000 reads as under:-



"Pursuant to the notification of "The persons with disabilities Equal Opportunities, Protection of Rights and full participation) Act 1995," instructions were issued vide Board's letter No.E(NG)/96/RE-3/G(2) dated 29.4.99, laying down interalia that in cases where an employee has been medically invalidated/decategorised and where the Administration cannot find a suitable alternative post for such an employee, he may be kept on a supernumerary post in the grade in which he was working on regular basis, till such time a suitable post can be identified or till his retirement, whichever is earlier. As these instructions provided for continuation in service of medically invalidated/decategorised employee there would be no occasion for an employee to be retired from service on medical ground. Therefore, according to these instructions in such cases, the occasion to consider a request for appointment on compassionate ground of an eligible ward would not arise."

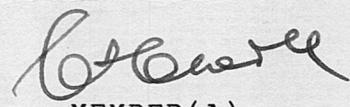
From the aforesaid paragraph of the Railway Board's circular it is clear that it is open for the respondents to keep applicant in service till retirement in terms and conditions provided in the above order. The applicant is not entitled for other reliefs. Learned counsel for the applicant submitted that under para 3 of the circular applicant is entitled for relief. However, the application of para 3 will arise only in case the application of para 2 is ruled out.

The application is accordingly disposed of finally with the liberty to the applicant to approach the

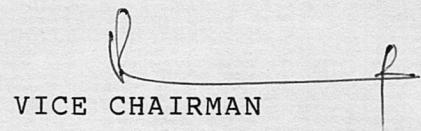


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respondents to provide him suitable job on which he may work. If the representation so filed ~~which~~ shall be considered and decided in accordance with paragraph quoted above. No order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 13.5.2002

Uv/