

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

Present: Hon'ble Mr. Swarup Kumar Mishra, Member (J)
Hon'ble Mr. T. Jacob, Member (Admin)

O.A. No. 984/2014

Ms. Tapaswini Prusty, aged about 34 years, Daughter of Jitendra Mohan Prusty, permanent resident of Kaibalya, 176/7, Kedargouri Vihar, P.O. – BJB Nagar, Bhubaneswar, Dist – Khurda – 751014, Odisha.

.....Applicant

VERSUS

1. Union of India represented through the General Manager, East Coast Railway, E. Co. R. Sadan, Chandrasekharpur, Bhubaneswar, Dist - Khurda.
2. Deputy Chief Personnel Officer (Recruitment), Railway Recruitment Cell, 2nd Floor, Rail Sadan, E. Co. Railway, Chandrasekharpur, Bhubaneswar -17, Dist – Khurda.
3. Chief Medical Director/E.Co.Rly./Rail Sadan, Chandrasekharpur, Bhubaneswar – 17, Dist – Khurda.

.....Respondents.

For the applicant : Mr. N. R. Routray, Advocate.

For the respondents: Mr. R. S. Behera, Advocate

Heard & reserved on : 25.02.2021

Order on :26.04.2021

O R D E R

Per Hon'ble Mr. Swarup Kumar Mishra, Member (J):-

This is the second round of litigation. The applicant had earlier approached this Tribunal in OA No. 637/2014 which was disposed of vide order dated 22.08.2014 (Annexure A/6) directing the respondent No. 2 to disposed of the representation of the applicant. Thereafter, Respondent No. 2 rejected the request of the applicant vide speaking order dated 23.09.2014 (Annexure A/7) which is challenged by the applicant in the instant OA. The applicant is seeking the following relief(s):-

- a. To quash the order dtd. 04.09.2013 and 23.09.2014 under Ann. A/3 & A/7 respectively;
 - b. And to direct the Respondents to appoint the applicant as Trackman, Token Porter, Gate Keeper & Helper- II against the post applied for;
 - c. And pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice.
2. The respondents in their counter inter alia averred that as per the stipulation of the employment notice for empanelment one has to pass at least in B1 medical standards but since the applicant was not found fit in the lowest prescribed medical standard i.e. B 1 therefore she failed to find a place in the final merit list. The respondents further submitted that as per rule 503 (g) (ii) of Indian Railway Medical Manual (IRMM) (Annexure R/2) under the head "Squint" read that "For technical services where the presence of binocular vision is essential, squint even if the visual activity is of prescribed standards should be considered a disqualification.
3. The applicant had filed rejoinder.
4. We have heard learned counsels and have carefully gone through material on records. The applicant had applied for the post of Trackman, Token Porter, Gate Keeper and Helper - II in pursuance to advertisement dated 17.12.2010 vide Annexure A/1. The applicant was successful in written test and PET test but the candidature of the applicant was rejected as she was found unfit for the medical category of A 2, A 3 and B 1 as per the communication made to the applicant vide Annexure A/3 dated 04.09.2013. Subsequently upon her appeal dated 16.09.2013, the applicant was again subjected to other medical tests. Para 4.6 of the OA shows that the applicant was medically examined by Medical Officer, Squint Clinic, Regional Eye Hospital, Vishakapatnam as per report dated 13.12.2013 as well as report dated 14.12.2013 of Govt. Eye Hospital Vishakapatnam. It is the specific stand of the applicant as mentioned in the OA as well as para 3 of the

rejoinder that the report of the medical test was not supplied to the applicant in order to enable her to know the basis on which she was found unfit. Learned counsel for the respondents submitted that that the applicant having been medically found unfit cannot claim any relief in this case.

5. As per Annexure R/2 the requirement as per Rule, the post of token porter does not come within technical services. Besides that the applicant had submitted one medical report of a private doctor vide page 23 wherein the doctor found that the applicant has normal eyesight although she has squint. As per the requirement vide Annexure R/2, "For other services the presence of squint should not be considered as a disqualification if the visual acuity is of prescribed format." The medical reports as furnished do not show that the concerned doctors had applied their mind and conducted any test with regard to vision of the applicant, whether it was normal or not, although the report shows that she has squint eye sight.
6. Therefore, it is necessary to remand back the matter to the concerned authorities with a direction to the respondent to communicate the report of the medical test to the applicant and thereafter if the applicant files a fresh appeal before concerned authorities, they will take necessary steps for fresh medical examination of the applicant by competent doctors in accordance with law and shall communicate necessary finding to that effect to the applicant within a period of four months. The impugned order vide Annexure A/3 & A/7 are quashed accordingly.
5. The OA is accordingly disposed of with above observation but in the circumstances without any order to cost.

(T. JACOB)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)

(CSK)