

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/115/2020

HYDERABAD, this the 22nd day of March, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



C. Raja Shekar, Group. 'C'
S/o. C. Venkatappa,
Aged about 38 years,
Occ: Loco Pilot (Goods),
Chief Crew Controller,/SNF, Sanath Nagar,
Hyderabad – 500 018.

...Applicant

(By Advocate : Sri M. Venkanna)

Vs.

1. Union of India rep. by
The General Manager,
South Central Railway,
Sanchalan Bhavan,
Secunderabad.
2. The Divisional Railway Manager,
Secunderabad Division,
S.C. Railway, Sanchalan Bhavan,
Secunderabad.
3. The Senior Divisional Personnel Officer,
Secunderabad Division,
Sanchalan Bhavan,
Secunderbaad.
4. The Senior Divisional Electrical Engineer,
T.R.S.O.,
Secunderabad Division,
Sanchalan Bhavan,
Secunderabad – 500 025.

... Respondents

(By Advocate: Sri T. Hanumantha Reddy, SC for Rlys.)

ORAL ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)

2. The OA is filed challenging the posting of the applicant as Commercial Supervisor on being medically de-categorised.



3. Brief facts of the case are that the applicant while working as Loco Pilot (Goods) was medically de-categorised and posted as commercial supervisor vide letter dated 10.12.2019, whereas similarly situated employees were posted as Office Supervisor (for short "*OS*"). Applicant represented on 31.1.2020 and as no result was forthcoming, OA is filed.

4. The contentions of the applicant are that Commercial Supervisor is a responsible position and with recurrent seizures from which he is suffering, he is afraid that he cannot handle the job. There are a number of vacancies in the OS category in which he can be accommodated. The very purpose of medical de-categorisation is to offer an alternative post, which is suitable keeping in view the medical condition of the applicant.

5. Respondents per contra state that the applicant was medically de-categorised by a screening committee wherein a doctor is also a member and was found fit for the post of Commercial Supervisor. Medical classification and educational profile were taken into consideration while posting the applicant as Commercial Supervisor. The applicant's pay and rank has been protected. The applicant has a right to seek alternative appointment but not to a particular post. The Committee is competent to decide and there is no violation of Rules. There are no posts of Office Supervisor available to post the applicant. Representation submitted has been rejected.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is about posting of the applicant after medical de-categorisation as Commercial Supervisor. The respondents state that the relevant provisions of the IREM have been followed in posting the applicant to the said post on the recommendations of a competent screening committee. The applicant cannot choose a post and that if he were not to join the post offered, he would not be entitled for salary. Besides, there are no OS posts available to post the applicant. The averments made by the respondents are in consonance with the rules and there is no second opinion about the same.



II. However, the applicant was medically de- categorised due to a health issue which does not permit him to do certain tasks which require concentration for long spells of time. The post of Commercial Supervisor as the name goes, is all about dealing with commercial aspects which involves revenue related work and hence, calls for greater responsibility and deep concentration so that no wrong decision or note is prepared, which would cause difficulty in regard to the aspect of revenue for the respondents organization. Now, the moot point to be considered is as to whether assigning an important assignment like Commercial Supervisor to the applicant would be in the interest of the organisation! *Seizure* in medical parlance is understood as a sudden, uncontrolled electrical *disturbance* in the brain. It can cause changes in your behavior, movements or feelings, and in levels of consciousness. Such is the impact of seizure on the behaviour of an individual and placing such individuals in posts of Commercial Supervisors is taking an unwarranted risk from the

organisational point of view. More than the applicant the respondents need to be worried to assign such an assignment to an employee who suffers from seizures.

III. True, the Screening Committee had a doctor but there is a well



accepted saying that a patient knows better than the doctor about what he is suffering from. A doctor's advice is valuable but all advises are not found to be correct. A doctor is also a human being and there could be a judgmental error in his opinion too. It cannot be denied that the respondents need people who can work and not those who cannot. Here is a case where the applicant is praying that he is not in a position to work as Commercial Supervisor due to his medical .issue and by forcing him to work in the said post, either he will commit mistakes which will only lead to disciplinary action and will cause unnecessary financial burden on the respondents organisation or he will seek voluntary retirement, which in turn calls for replacement involving recruitment costs and precious time required to find a replacement. Decision making involves all these aspects and it is not a one-problem-one-solution syndrome. Therefore, the element of discretion in decision making. If decisions were to be straight jacket decisions, then serious questions would arise in having a hierarchy of command in the managerial spectra of the respondents organisation. The efficiency of an organisation is also measured from the grievance decision ratio and organisations with the lowest such ratio are the most successful, for the obvious reason that employee morale would be high, coupled with higher unflinching commitment to the organisation.

IV. Further, respondents' organisation has a very large establishment and finding a suitable alternative is not a difficult exercise. Where there is a will there is a way. The respondents did accommodate similarly situated staff as OS and therefore, the plea of the applicant to consider him similarly. The respondents state that there are no OS posts, but they did not furnish any documentary evidence to this effect. As a model employer, they have a higher responsibility to back their facts with documentary backing, rather than challenging a hapless applicant to be put to strict proof of his contention about the availability of OS posts. It is not that the applicant needs to be posted as OS only, but any other post where he can work and contribute to the organisation. This is the minimum responsibility of the respondents to be discharged in the best interests of the organisation and in the process, the applicant too. Rules are meant to take decisions, which further the interests of the organisation and not create disgruntled employees by not appreciating the import of the rules. The spirit of the rule is sacrosanct and not its literal interpretation.



V. We find that there is scope to accommodate the applicant like many others in a post in which he can work and not doing so, is defeating the very objective of having the concept of medical de-categorisation. The OA was filed in January 2020 and there could be some OS posts that would have become vacant in the interregnum period and such a possibility cannot be ruled out. Therefore, it is all the more necessary to have a relook at the request of the applicant.

VI. In view of the above, we direct the respondents to consider the request of the applicant for posting him in the post of OS and in case, it is

not feasible, they are directed to post him in a post compatible to his ability to perform, other than the Commercial Supervisor post. Before issuing the posting order, the applicant be called and heard, so that there would be no further room for the grievance to persist. Time calendared to implement the judgment is 3 months from the date of receipt of this order.



With the above direction the OA is disposed of with no order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/