

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 291/673/2014

Order reserved on 01.10.2021

DATE OF ORDER: 12.10.2021

CORAM

**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER**

Kuldeep Kumar Bairwa S/o Shri Prem Chand Bairwa, aged 24 years, By caste-Bairwa, R/o Ramnagar Colony, Behind Bhoot Bunglow, Ward No. 3, Bandikui, Daa. At present: working as Electric (Khalasi).

....Applicant

Shri Akshat Dewan, proxy counsel for
Shri Punit Singhvi, counsel for applicant.

VERSUS

1. Union of India through its General Manager (P), HQ Office, North Western Railway, Near Jawahar Circle, Jaipur.
2. The Senior Engineer (Institution, HQ Office, North Western Railway, Near Jawahar Circle, Jaipur.
3. The Assistant Personnel Officer, Railway Recruitment Office, Durgapura Railway Station, Jaipur.
4. The Medical Officer, Medical Department, North Western Railway, Near Jawahar Circle, Jaipur.

.... Respondents

Shri M.K. Meena, counsel for respondents.

ORDER

Per: Hina P. Shah, Judicial Member

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for the following reliefs:-

- “1. By an appropriate order or direction the impugned report dated 15-11-2014 whereby the applicant candidature has been rejected be declared as Arbitrary, Unconstitutional and Ultra virus. Further, the rejection report dated 15-11-2014 may be quashed and set aside.
2. By an appropriate order or direction the Respondents may be directed to consider the candidature of the Applicant on the basis of the Report of SMS Hospital and give him appointment on the post of Assistant Loco Pilot with the Respondents.
3. That any other beneficial orders or directions which this Hon’ble Tribunal deems just and proper in the facts and circumstances of the case be kindly passed in favour of the applicant.

vi) Cost be quantified in favour of the applicant.”

2. The brief facts of the case, as stated by the applicant, are that he was working on the post of Electric Khalasi with the respondents. The respondents had issued an advertisement/notification dated 28.04.2014 for filling of 50% posts of Assistant Loco Pilot (ALP). Out of 36 posts advertised, 05 posts were reserved for Scheduled Caste Category and as

applicant, who belonged to Scheduled Caste category, had applied for the same. As he fulfilled all the requisites for the said appointment, he appeared for the written examination held on 11.10.2014 and was declared successful and he appeared at Sl. No. 1 in the order dated 05.11.2014, (Annexure A/2), and thereafter was called for medical examination, in which he was found unfit on the ground that he was not having perfect vision. He thereafter got his eyes tested from Government Community Health Centre, Bandikui, Dausa wherein the doctors have held that his eyes are perfect and he is having normal vision, (Annexure A/3). Applicant again got his eyes tested from Jaipur Calgary Charitable Eye Hospital, Jaipur and also from a private optician wherein the doctors held that his eyes are perfect and is having normal vision, (Annexure A/4). Thereafter, again he got his eyes tested from SMS Medical Hospital, Jaipur wherein also the doctors testified his vision to be normal and perfect, (Annexure A/5). The applicant, thereafter, approached the respondents with all the medical reports but they refused to consider the case of the applicant. Therefore, being aggrieved by the action of the respondents in not considering his candidature in

spite of normal and perfect vision, he has approached this Tribunal for redressal of his grievances.

3. Respondents filed their reply raising preliminary objection that Assistant Loco Pilot (ALP) is a safety category post where safety is the most important concern for Railways. This aspect of safety cannot be allowed to be diluted at any cost. It is further stated that individual difficulty cannot be a ground to dilute the provisions stipulated in order to ensure safety and, therefore, a person is recruited on the post of ALP only if his vision is perfect. On merits, respondents state that as per the medical tests (A-1 category) of the applicant conducted on 15.11.2014 and 19.11.2014, he was not found fit because the vision of the applicant came as 6/12 and 6/18 without spectacles and 6/6 with spectacles. It was further stated that 1st medical test of the applicant was conducted in April 2011 (under B-1 category) and after a period of 03 years and 07 months, again medical test of the applicant was conducted under A-1 category for the purpose of promotion. As per para 512 (i) A of IRMM Vol. 1 Edition 2000, a vision of 6/6 without spectacles is required for the purpose of service under A-1 category, where the incumbent is having less than 06

years of service. Since the applicant has rendered 03 years and 07 months of service, therefore, his vision was required to be 6/6 without spectacles whereas the vision of the applicant is 6/6 with spectacles and, thus, applicant was declared as unfit for medical test for the post of ALP. It is further stated that the vision of the applicant was 6/6 with spectacles of 0.5 and 0.25 so he was not found fit in category A-1 and, therefore, declared unfit for category A-1 for the post of ALP. It is further stated that the case of the applicant was considered by the respondents for medical examination wherein he was declared unfit on the ground of not having perfect vision. It is also stated that the reports submitted by the applicant being not issued by any of the Medical Units of the Railways cannot be accepted by the respondents and, therefore, reports of any other hospital / private hospitals cannot be accepted and taken cognizance. Therefore, applicant is not entitled for any relief and the O.A. deserves to be dismissed as respondents are justified in cancelling the candidature of the applicant as there is no flaw in the action of the respondents.

4. The applicant has not filed any rejoinder denying the submissions of the respondents.

5. We have heard learned counsels for the parties at length and examined the pleadings minutely as well as the judgments cited by the parties.

6. The applicant and the respondents reiterated their submissions as stated earlier.

7. The question which requires to be considered is whether the candidature of the applicant is to be considered for the post of Assistant Loco Pilot, a safety category post though he is medically declared as unfit for the said category and where safety is super-most concern for the Railways.

8. After hearing the parties and perusing the pleadings, the factual matrix of the case is that applicant was working on the post of Electric Khalasi and he had applied in pursuance to notification dated 28.04.2014 for the purpose of filling 50% post of Assistant Loco Pilot. He had appeared in written examination and was declared as successful and thereafter sent for medical examination but was declared as unfit on the ground of not having perfect vision. It is seen that applicant was sent for medical tests for A-1 category on 15.11.2014 and 19.11.2014,

he was found unfit because his vision was found as 6/12 and 6/18 without spectacles and 6/6 with spectacles. It is further stated that his 1st medical test was conducted in April 2011 under B-1 category and after a period of 03 years and 07 months again a medical test was conducted under A-1 category for the purpose of promotion. Respondents state that as per para 512 (i) A of IRMM Vol.I Edition 2000, it is stated that "if the services are less than 06 years then the sight/vision should be 6/6 without spectacles/corrections". In the case of the applicant, as seen, he has rendered 03 years and 07 months of service, thus, his vision was required to be 6/6 without spectacles whereas the vision of the applicant was found as 6/6 with spectacles. Therefore, the applicant has been rightly declared as unfit in the medical test for the post of ALP.

9. We have noted that the applicant on his own had got himself examined from various hospitals and private doctors, but as the report submitted by the applicant had not being issued by any of the Medical Units of the Railways, said reports were not accepted by the respondents as the vision of the applicant was 6/6 with spectacles of 0.5 and 0.25, so he was

declared as unfit for A-1 category for the post of ALP. We do not find any illegality on the part of respondents in declaring the applicant unfit as the post of ALP is a safety category post where lives of several people are on stake and vision is very important as the said post demands proper vision as per rules.

10. Now coming towards the judgments/orders submitted by the applicant, which are as under:-

- a) Sandeep Singh vs. Union of India & Ors. (S.B. Civil Writs No. 12040/2018) decided on 01.06.2018 by Hon'ble High Court of Judicature for Rajasthan at Jaipur
- b) Adhikari Jena vs. Union of India & Ors. (OA No. 510/2012) decided on 12.12.2017 by C.A.T., Cuttack Bench
- c) Balbir Singh vs. UHBVNL & Ors. (CWP No. 16179 of 2007) decided on 03.03.2009 by Hon'ble High Court of Punjab & Haryana at Chandigarh
- d) Lallu Ram Yadav vs. Union of India & Ors. (DBCWP No. 12975/2017) decided on 29.11.2018 by Hon'ble High Court of Judicature Rajasthan at Jaipur.

After going through these judgments/orders, it is seen that none of the judgments/orders apply to the facts and circumstances of the present case as the present case relates to the post of Assistant Loco Pilot which is a safety category post and where vision is

important and life of people cannot be put to danger and as seen from the reports even after undergoing medical tests on two occasions, the applicant was found unfit.

11. In view of the discussions made herein-above, there deserves no interference in the action of the respondents as the same cannot be said to be arbitrary, unconstitutional or ultra virus. But in the interest of justice, we may direct the respondents to constitute a Medical Board to re-examine the applicant and issue a certificate depending on his medical fitness and if found fit, then consider him for appointment to the post of Assistant Loco Pilot and the said exercise be carried out within a period of eight weeks from the date of receipt of a certified copy of this order.

12. Accordingly, Original Application is disposed of with the above observations and directions. No order as to costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER