

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No. 711/2016

Reserved on:07.07.2021
Pronounced on:09.07.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)
Hon'ble Mrs.Hina P. Shah, Member (J)**

Nitish Kumar son of Shri Binod Kumar Rao, aged 29 years, Caste-Kurmi (OBC) & resident of Village Murgaon-via-Islampur, P.O. Murgaon, District Jehanabad (Bihar).

...Applicant.

(By Advocate: Shri Ashish for Shri S.K.Saxena)

Versus

1. Union of India through its Chief Administrative Officer (Construction), North Western Railway Headquarter, Jawahar Circle, Jaipur.

2. Divisional Railway Manager (Establishment), DRM Office, North Western Railway, Ajmer. ...Respondents.

(By Advocate: ShriAnupam Agarwal)

ORDER

Per: Dinesh Sharma, Member (A):

In this OA, the applicant has prayed for quashing the impugned orders dated 15.02.2016 (Annex-1), 07.04.2016 (Annex-1A) and 31.05.2016 (Annex-1B) with consequential relief of appointment as per the merit of the applicant with other consequential benefits. Annex-1 is a letter informing the applicant about cancellation of the offer of appointment to the applicant as Group 'C' Junior Engineer in Railway Service. This is since he has failed to be present at DRM Office Ajmer, on 21.12.2015, for the pre-appointment first training session to be held at Udaipur from 22.12.2015 to

(2)

21.03.2016, as directed. The letter also informs the applicant that he had been asked to give his explanation for non appearance, by a letter dated 07.01.2016, within 15 days and that his request for extension of time up to April 2016 has not been accepted by the competent authority. Letters dated 07.04.2016 and 31.05.2016 (Annex-1A and 1B) are in response to the requests of the applicant for considering re-appointment (the last one received through the PMs Grievance Redressal Cell) informing him again about their having cancelled the offer of appointment and for treating the cancellation dated 15.02.2016 as final.

2. The applicant states that he had to seek time since his father was suffering from severe hepatitis and jaundice w.e.f. 16.11.2015 and hospitalized w.e.f. 16.11.2015 to 15.01.2016. There was no response to his request seeking extension of time and he was only informed about the cancellation of the offer of appointment. The applicant had secured the position on merit and had appeared for and cleared the medical examination held on 07.05.2015 as per the condition of order of appointment(dated 10.04.2015, Annex-7). The rejection of the applicant's request for extension is arbitrary and in contravention of the doctrine of reasonableness as well as doctrine of legitimate expectations. It is also *ab initio* wrong, illegal, violating

(3)

principles of natural justice, Article 14 and 16 and therefore deserves to be cancelled.

3. The Single Bench of this Tribunal heard this matter on the applicant's request for an interim relief on 20.09.2016. It directed that one post of Junior Engineer (works) under DRM North Western Railway, Ajmer, may be kept vacant till the next date of hearing, if such vacancy was still available without adversely affecting the rights of any other eligible/selected/appointed candidates

4. The respondents have replied stating that the applicant has no legal right to get his request for extension of time accepted. The competent authority rejected his request for extension of time and informed him. The applicant has filed different medical certificates before the respondents and before this Tribunal. The competent authority of the Railways had considered the representations of the applicant for extension of time and using their wisdom and discretion ordered that sufficient time and opportunity had already been given to the applicant and therefore found it appropriate to cancel the offer of appointment. The cancellation is just and legal and therefore the OA deserves to be dismissed.

(4)

5. A rejoinder has been filed reiterating the claims made in the OA and giving reasons why two different sets of medical certificates were produced.

6. The matter was heard through video conferencing on 07.07.2021. The learned counsel of both the parties reiterated their respective stands expressed in the pleadings.

7. After going through the records and hearing the arguments, it is clear that the only issue in this matter is whether the applicant has any legally enforceable right to have his request for extension of time, for joining a pre-appointment training, granted. The applicant has not been able to establish any such right under any law or rules or any judicial pronouncements directly applicable to the facts of this case. He has claimed the relief invoking the doctrine of reasonableness/legitimate expectations besides stating violation of natural justice and Articles 14 and 16 of the Constitution. However, we do not think it was reasonable on the part of the applicant to expect a large organisation like the Railways to change their training schedules to match the convenience of individual selectees. We also do not think it is legitimate for anyone to expect that a request of

(5)

extension shall certainly be accepted. And, even at the risk of appearing inconsiderate, we must mention that though human beings are frail and can exit this world on slightest of illness, hepatitis and jaundice are common and are not normally considered life-threatening diseases. Therefore, we do not think the applicant can succeed in getting the relief only on grounds of reasonableness or legitimate expectations.

8. We also do not see any violation of natural justice or Articles 14 and 16 of the Constitution. The applicant prayed for extension of time which was not granted. He could have joined but he chose to wait expecting (not reasonably) that his request for extension will be accepted. We are unable to understand how natural justice or the right to equality or for equal opportunity is violated in these circumstances.

9. Since the applicant has failed to establish any legal right, nor given any other legally justifiable reasons, for interfering in the impugned executive decision, we cannot allow this OA and it is, therefore, dismissed. No costs.

(Hina P. Shah)
Member (J)

(Dinesh Sharma)
Member (A)

/kdr/