

Item No.23



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.3652/2016

This the 26th day of April, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Dr. Nandita Chatterjee, Member (A)**

Sh. Jeet Ram Gurjar
S/o Ram Kumar, age 26 years
Roll No. 50199289
R/o Vill. & Post-Amawara, Tehsil-Bamanwas
Distt. Sawaimadhopur, Rajasthan.

... Applicant

(By Advocate: Sh. B.K. Berera)

Versus

1. Union of India through
General Manager
Northern Railway, Baroda House
New Delhi.
2. Chairman, Northern Railway
Railway Recruitment Cell
Lajpat Nagar-I, New Delhi-110024.
3. Railway Board
Through its Chairman
Having its office at Rail Bhawan, New Delhi.-
Respondents

(By Advocates: Sh. V.S.R. Krishna with Sh. A.K. Srivastava)

...Respondents

Item No.23

ORDER (Oral)**Justice L. Narasimha Reddy:**

The Northern Railway initiated steps for appointment of 5679 employees under Group 'D', covering various categories, in the year 2013. A notification in this behalf was issued on 30.12.2013. The applicant was one of the candidates. He was short listed on the basis of performance in the written test and the Physical Endurance Test. When he was subjected to medical test before the Medical Officer, Railway Hospital, Moradabad, a view was expressed that the vision of the applicant is not perfect and the matter was referred to the experts at the Headquarters Hospital of Northern Railway at New Delhi.

2. The Headquarters Hospital, in turn, referred the case of the applicant to All India Institute of Medical Sciences (AIIMS) for their opinion. The Chairperson of the Medical Board, AIIMS, gave their report on 22.08.2015, stating that the vision of the applicant is normal, but there is a possibility of its getting affected in future, when he reaches the age of 40 to 50 years. An indication was also made to the effect that he can be adjusted in non-clerical job as per eligibility. The Recruiting Agency, issued an order dated 30.10.2015, indicating the status of the applicant as 'Medically Unfit for all categories'. This OA is filed challenging the said communication dated 30.10.2015.

Item No.23



3. The applicant contends that the clarification made by the Medical Board of AIIMS, is clear to the effect that his vision is normal and despite that, his candidature was rejected. He contends that even if there is any possibility of his vision being affected in the future, he can be adjusted against any non-related safety post.

4. The respondents filed detailed counter affidavit. The basic facts are not in dispute. It is, however, stated that the several posts are safety related and not possible to adjust the applicant against any of the vacancies.

5. Today, we heard Shri B.K. Berera, learned counsel for the applicant and Shri V.S.R. Krishna with Shri A.K. Srivastava, learned counsel for the respondents, in detail.

6. The recruitment process for various posts of Group-D in the Northern Railway, commenced in the year 2013. The total number of vacancies is 20,015. 5679 vacancies were notified, covering 9 categories, namely, Pointsman, Gateman, Khalasi Helper, Trackman, Carriage Cleaner, DSL Khalasi, Safaiwala, Cook Mate, Hospital Attendant. All these posts are not safety related. Only some of them such as, Pointsman, Gateman, Trackman are safety related. There is no element of safety for posts like Safaiwala, Cook Mate, Hospital Attendant. The applicant was successful to the level of being shortlisted for selection. In case, he was found to be medically fit, he was entitled to be appointed. At the stage of Medical Examination,

Item No.23



the Chief Medical Officer of the Northern Railway, Moradabad, expressed doubt about the status of the vision of the applicant and addressed a letter dated 14.08.2015 to the Headquarters Hospital. The Headquarters Hospital, in turn, referred the case of the applicant to the AIIMS for opinion. The Medical Board of the AIIMS examined the applicant and issued a report dated 22.08.2015, which reads as under :-

“Presently the patient has normal vision. The lesion may increase in future, but are known to be very slowly progressive and do not cause visual disturbance until crosses age 40-50 years. He may be adjusted in non-clerical job as per eligibility.”

7. From a perusal of the report, it is evident that the applicant was found otherwise normal and fit. It is only by taking into account the future possibility of the vision of the applicant being affected, that doubt was expressed. There again, a suggestion was made to the effect that the applicant can be considered against a non safety post.

8. The mere fact that the applicant is likely to suffer some disability in vision in future, cannot be a ground to deny him the appointment even after he had been selected. Things would have been different altogether, in case the post to which the selection is made is totally related to safety, and there cannot be any compromise with the medical parameters of the selected

Item No.23



candidates. It has already been pointed out that there are many posts, which are totally unrelated to safety and the applicant can be adjusted against them. Hard earned place in the selection by the applicant cannot be defeated just on the basis of the doubt expressed, that too, in relation to safety related post.

9. We, therefore, allow the OA and set aside the impugned order. The respondents shall consider the case of the applicant for appointment against a non-safety related post. The exercise in this behalf shall be completed within a period of two months from the date of receipt of the order. The appointment of the applicant shall be prospective in operation. There shall be no order as to costs.

(Dr. Nandita Chatterjee)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

rk/ns/dsn