

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

O.A. No.782/2019

This the 25thday of June, 2021

(Through Video Conferencing)

**Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

Mahendra Kumar Meena, Aged-30 years,
S/o Sh. Mool Chand Meena,
R/o Vill-Kuagoan, P.O. – Bichpuri,
Tel.-Bamanwas, Distt. Sawai Madhopur
State Rajasthan - 322212

...Applicant

(By Advocate: Shri Yogesh Sharma)

VERSUS

1. Union of India, through the Secretary,
Ministry of Railway, Rail Bhawan,
New Delhi.
2. The Secretary,
Railway Recruitment Board,
Bhuneswar (Orissa)
3. The Divisional Railway Manager,
East Coast Railway,
Khurda Road, Bihar,
Pin - 752050

...Respondents

(By Advocate: Shri Shailendra Tiwary)



ORDER (Oral)



Hon'ble Mr. R.N. Singh, Member (J):

In the present OA, filed u/s 19 of the Administrative Tribunal Act, 1985 and the applicant has challenged the order dated 18.12.2018 (Annexure A/1), vide which the request of the applicant for his re-medical examination for his promotion to the post of Assistant Loco Pilot (in short, ALP) has been rejected and also against the action of the respondents, vide which the applicant has been declared medically unfit for the post of ALP. In the OA, the applicant has prayed for the following reliefs:-

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 18.12.2018 and medical unfit certificate dt.17.10.2017 and consequently, pass an order directing the respondents to conduct a re-medical examination of the applicant by third independent Hospital like AIIMS, RML Hospital, Safdarjung Hospital etc. and consequently consider the candidature of the applicant for his appointment to the post of ALP on the basis of medical report of Independent medical Board with all the consequential benefits from due date.

(ii) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 26.2.2018 and consequently, the applicant is entitled for all the benefits.

(iii) Any other relief which the Hon’ble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation.”

2. Pursuant to the notice from this Tribunal, the respondents have filed their reply affidavit and they have opposed the claim of the applicant in the present OA. The precise facts of the present case are that in response to Central Employment Notice No. 01/2014, the applicant applied and participated in the selection process. He was declared successful in the said selection process and is stated to have been allotted Khurda Road Division in East



Coast Railway for the post of ALP. Further, pursuant to such selection, the applicant was medically examined by the respondents, however, he was found medically unfit in A-One category on account of defective vision vide medical certificate dated 17.10.2017. The applicant is stated to have preferred an appeal in view of the opportunities provided by the respondents, however, the said appeal was found deficient and accordingly, the applicant was advised by the respondents vide letter dated 28.05.2018 (Annexure - A/10) to remove the said deficiencies in his appeal for consideration of the respondents. Pursuant to the same, the applicant has preferred an appeal on 03.07.2018 with a medical certificate and a demand draft of Rs. 1,000/-, as evident from the submission made by the respondents in para 16 of the counter reply. Vide impugned order dated 18.12.2018, the applicant has been informed that submission of an appeal is delayed as per circular dated 07.07.2017 of the Railway and no justification has been provided for late submission of appeal. In the said impugned order, the applicant has been accorded an opportunity for making deficiencies good so that further action can be taken by the respondents on his said appeal.

3. It is contended by Shri Yogesh Sharma, learned counsel for the applicant that after the applicant was declared medically unfit vide impugned certificate dated 17.10.2017, he has never been examined by any medical board constituted by the respondents. However, Shri Shailendra Tiwary, learned counsel for the



respondents submits that the applicant had already been examined by a Board of three Doctors, constituted by the respondents. However, this fact has not been reflected in the relevant pleadings. No such documents, indicating examination of the applicant by a Board of three Doctors, are placed on record. However, it is not in dispute that in the aforesaid appeal, the applicant has submitted medical certificates and a demand draft of Rs. 1,000/-. Shri Shailendra Tiwary, learned counsel for the respondents doesn't dispute that the respondents have accorded opportunities to the applicant to make the deficiencies good in the appeal vide their letters dated 28.05.2018 and 18.12.2018 for consideration of his appeal.

4. In the facts and circumstances, we are of the considered view that once the applicant has complied with the directions of the respondents contained in the letter dated 28.05.2018, by way of his further appeal dated 03.07.2018, there is no reason or justification available to the respondents in not considering the appeal of the applicant on merit and to reject the same only on the ground that the same has been preferred belatedly. More so, in its impugned order dated 18.12.2018, the applicant has been advised for submission of the necessary justification for further action at their end. From the pleadings on record, it is not evident that a copy of the report by a Board consisting of three Doctors has been provided to the applicant.



5. In view of the above, the present OA is disposed of and the respondents are directed first to supply a copy of such report to the applicant, within four weeks. On receipt of such report, issued by the Board of Doctors, the applicant shall be at liberty to make supplementary representation within two weeks and on receipt of such supplementary representation, the respondents shall consider the applicant's appeal along with the supplementary representation on merit and dispose of the same by passing an appropriate order as expeditiously as possible and in any case within six weeks.

It is further directed that in case, the respondents find even at this stage that the applicant has never been examined by a Board of three Doctors, the respondents shall take necessary steps to get the applicant examined by a duly constituted Board of three Doctors to decide the stability of the applicant for the post of ALP within six weeks and thereafter keeping in view report of such Board of Doctors shall pass an appropriate orders within six weeks.

6. OA is disposed of in the aforesaid terms. No order as to costs.

(R.N. Singh)
Member (J)

(A.K. Bishnoi)
Member (A)