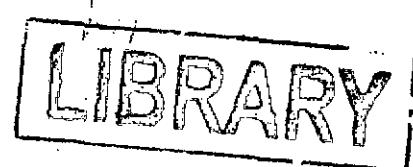


CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA

No. O.A. 350/01015/2020

Date of order: 10.2.2021

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Madhumita Mukherjee,  
Daughter of Shri Aniruddha Mukherjee,  
Aged about 32 years (date of birth - 01.05.1988),  
By occupation employment seeker and  
Residing at Kamakhya Apartment,  
Opposite Sukanta Maidan,  
129, S. B. Gorai Road,  
District - Paschim Bardhaman,  
PIN - 713 303.

..... Petitioner/Applicant.

-Versus-

1. The Chairman,  
Railway Recruitment Board,  
Metro Railway,  
A. V. Complex, Chitpur,  
R. G. Kar Road,  
Kolkata - 700 037.
2. Union of India  
Through the General Manager,  
Metro Railway,  
Kolkata, Metro Rail Bhawan,  
33/1, J.L. Nehru Road,  
Kolkata - 700 071.
3. Principal Chief Personnel Officer/  
Chief Personnel Officer,  
Metro Railway,  
Kolkata, Metro Rail Bhawan,  
33/1, J.L. Nehru Road,  
Kolkata - 700 071.
4. Sr. Personnel Officer,  
Metro Railway,  
Kolkata, Metro Rail Bhawan,  
33/1, J.L. Nehru Road,  
Kolkata - 700 071.

5. Chief Medical Officer,  
Metro Railway,  
Kolkata, Metro Rail Bhawan,  
33/1, J.L. Nehru Road,  
Kolkata – 700 071.

6. Dpty. Chief Operations Manager,  
Metro Railway,  
Kolkata, Metro Rail Bhawan,  
33/1, J.L. Nehru Road,  
Kolkata – 700 071.

.....Respondents.

For the Applicant : Mr. B.P. Manna, Counsel  
Mr. C. Sinha, Counsel

For the Respondents : Ms. S. Chowdhury, Counsel

**O R D E R (Oral)**

**Dr. Nandita Chatterjee, Administrative Member:**

Aggrieved at being declared medically unfit for the post of Traffic Assistant, the applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

I. Rescind/recall/withdraw the order dated being Annexure-A1 which is uploaded on 05.10.2020 in the D G Portal by the Respondent Authorities.

II. To pass an Order upon the Respondent Authorities to accept the 4 fitness certificates dated 27.07.19 and 29.07.19 of the petitioner which have been issued by 4 renowned Medical Practitioners as per Railway Board Order dated 31.12.2015 (Annexure -A6) and accordingly hold a re-medical examination on the basis of the said certificates as per Board's order dated 31.12.2015 read with Rule 522 of IRMM-2003 and if found fit in the said re-medical examination grant appointment to the applicant as Traffic Assistant forthwith.

III. Direct the Respondent Authorities to consider the fit certificate dated 13.10.2020 submitted by the petitioner as per Railway Board order dated 07.07.2017 and hold a re-medical examination on the basis of the said certificate and if found fit in the said re-medical examination grant appointment to the applicant as Traffic Assistant forthwith (prayer III may be treated as an alternative prayer to that of prayer I & II above).

IV. Certify and transmit the entire records and papers pertaining to the applicant's case so that after the causes shown thereof conscientiable justice



may be done unto the applicant by way of grant of reliefs as prayed for in (i) to (iii) above.

V. Any further order/orders and/or direction or directions as to your Lordships may seem fit and proper.

VI. Ccsts."

2. Heard both Ld. Counsel, examined pleadings, documents on record as well as those furnished by Ld. Counsel for the respondents during hearing.

3. The facts, in brief, as articulated by Ld. Counsel for the applicant is that, the applicant had responded to a notification for filling up Non-Technical Popular Categories (Graduate) notification through centralized employment notice No. 03/2015 dated 26.12.2015. The applicant had applied for the post of Traffic Assistant and was declared suitable in the written examination, aptitude test and document verification. She was, thereafter, offered appointment on temporary and provisional basis vide respondent authority's orders at Annexure A-4 to the O.A., and, after complying with all the necessary formalities, on 3.6.2019, the applicant accepted the offer of appointment.

Thereafter, the applicant was directed to fill up the requisite form for medical examination and the applicant filled up the same duly indicating two identification marks as below:-

- (i) A burn mark on upper palm of left hand.
- (ii) A mole on upper arm of right hand.

After conduct of medical examination the applicant received an unfit certificate on 19.7.2019 in Aye Two (A2) medical category. The applicant was, however, advised that she could opt for re-medical examination in case she could produce any medical certificate as

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evidence on the possibility of error of judgment of the medical authorities.

The applicant appealed on 1.08.2019 for re-medical examination with four fitness certificates (including two certificates from government hospitals) (Annexure A-8 to the O.A.). Finally, she came to learn from the website of the authorities that her appeal was rejected as the identification marks as detailed by the applicant candidate in her medical examination form was not found incorporated in the medical certificate submitted for consideration of her appeal, and, hence, her prayer could not be considered for re-medical examination.

Aggrieved with such order of rejection recorded on 5.10.2020, the applicant once again approached the medical authorities to obtain further certificates from the Asansol District Hospital in which her identification marks were clearly detailed by the examining Medical Officer (Annexure A-13 to the O.A.) and would pray for a re-medical examination.

4. The respondents, per contra, have argued as follows:-

That, the applicant had been directed to appear for the medical examination in A-2 category on 3.6.2019 but was declared unfit in A-2 medical category as per medical certificate dated 11.6.2019. The applicant was informed accordingly.

Although, the applicant, thereafter, produced medical certificates issued by private medical practitioners as well as State government medical practitioners, with an appeal for re-medical examination on 1.8.2019, her appeal was rejected because she had failed to comply with

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the directions of the Railway Board as contained in advance correction slip No. 3/2017 to Para 522 (I) of IRMM:

"(vi) If the candidate wants to appeal against the decision of the Committee, he should submit the same to CMD of the zone within a period of one month (from the date of receipt of decision from Personnel Department) with due justification routed through concerned Personnel Department of the zone. Such an appeal shall be entertained, only, if the candidate produces a certificate from a Government/Private doctor of the speciality/specialities in which the candidate has been found unfit. Such a certificate should contain a note that the Government/Private specialist is fully aware of the physical & visual standards set by the Railways for the particular medical category, and that he is aware of the fact that the candidate has already been declared unfit according to these standards during medical examination conducted by an appropriate Medical Board comprising of three senior railway doctors appointed by the Government in this regard. The certificates should bear the photograph and mark of identification of the candidates duly attested by such a Government/Private issuing Authority. Such an issuing authority shall also clearly mention its MCI/State registration number. The candidate should clearly be advised of this para."

The respondents have furnished, during hearing, the following clarification of Railway Board's policy No. 2014/H/5/8, in the context of the applicant:-

"

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Sub: Clarification of Railway Policy No. 2014/H/5/8 dated 31.12.2015.  
Ref: PCPO's letter No. MRTS/RRB/Med. Unfit/Pt. I, dtd. 16.7.19.

Reference above it is informed that, Smt. Madhumita Mukherjee has been declared medically unfit in A3 category due to substandard vision after giving offer of appointment (as per prescribed medical category by RRB) on 11.6.2019. Madhumita Mukherjee had been given intimation for her medical unfitness on 16.7.2019 with the Railway Board's policy 2014/H/5/8 dated 31.12.2015, where it is clarified that "Once the 03 member board has taken a decision on the ground of conditions like hypertension, sub standard vision and defective colour perception diabetes and the same has been accepted by the respective CMO/MD/CMS/ACMS in charge of the Unit/Divison/Sub Division, any representation/Appeal shall be dealt with on the basis of the records and findings of the Committee and the candidate will not be subjected to re examination." Smt. Mukherjee had been appealed for re examination by submitting of 03 (three) Non Railway Practitioners' prescriptions, but her application have been rejected by medical department as her appeal doesn't follow Railway Board's guidelines No. 2014/H/5/8 (Policy), dated 07.07.2017 in para VI where it was clearly mentioned "The certificates should bear the photograph and mark of identification of the candidates duly attested by such a Government/Private Issuing Authority. Such an Issuing Authority shall also clearly mention its MCI/State registration number." She filed Court case.

This is for your kind information.

Dy. Chief Personnel Officer  
For Principal Chief Personnel Officer"

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Chronologically speaking, we have examined the matter and the following transpires:-

- (1) The applicant was issued an offer of appointment on 21.5.2019 (Annexure A-4 to the O.A.). She was thereafter directed to appear for medical examination as per Annexure A-5 to the O.A. Annexure A-5 to the O.A. also reveals that the applicant had incorporated two identification marks as follows:-
  - (i) A burn mark on upper palm of left hand.
  - (ii) A mole on upper arm of right hand.
- (2) That, the Railway Board, vide their circular dated 31.12.2015, (Annexure A-6 to the O.A.), had laid down guidelines for "Consideration of appeal of non-Gazetted candidates selected for Railway Employment – Cases of candidates declared unfit upon medical examination."
- (3) That, on 16.7.2019, (Annexure A-6 to the O.A.), the applicant was declared medically unfit in prescribed A-2 category due to sub-standard vision. She, however, was advised that as there are provisions for appeal in specific and exceptional cases as laid down in Railway Board's policy dated 31.12.2015, the candidate could appeal against the decision by producing certificates from a Government/private doctor of the concerned speciality containing the following note that the certifying medical practitioner is aware that the examinee candidate had already been certified/declared unfit by the Railway authorities.

A handwritten mark or signature, appearing to be 'bel', written in black ink above a horizontal line.

(4) The applicant, thereafter, appealed (Annexure A-8 to the O.A.) enclosing certificates from four medical practitioners. Each of such certificates which are annexed at Annexure A-7 to the O.A. contains the note that the certifying medical practitioners are aware that the candidate has already been declared unfit by the Railway authorities. The applicant, thereafter, came to know of the rejection of her appeal (at Annexure A-1 to the O.A.) on grounds of non-incorporation of the identification marks of the candidate as provided by Railway Board's policy dated 7.7.2017 upon which the applicant chose to obtain the said policy decision through RTI (Annexure A-11 to the O.A.), and, thereafter, once again procured a certificate from a government medical practitioner at Annexure A-13 to the O.A. on 13.10.2020 in which her identification marks have been duly incorporated.

5. We have carefully considered the submissions and have gone through the records placed before us. We find the respondent authorities while declaring her medically unfit at Annexure A-6 to the O.A. had advised her as follows:-

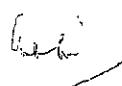
““METRO RAILWAY  
Metro Rail Bhavan (2<sup>nd</sup> Floor)  
33/1, Jawahar Lal Nehru Road,  
Kolkata-700071.

No. MRTS/RCC/Med. Unfit/Pt.I

Dated 16.07.19

To  
Smt Madhumita Mukherjee,  
D/o: Shri Aniruddha Mukherjee,  
Add: Karnaikha Apartment,  
Opp to Sukanta Maidan, 129 S.B.Gorai Road,  
Asansol – 713203.

Reg: Unfitness in Medical Examination.  
Ref: Dr. DMO/M.Rly.'s Unfit certificate no.606341 dated 11.06.2019.



Reference above, you are being informed that you have been declared unfit in Medical Examination in the prescribed medical category of A2 due to substandard vision as per Medical Board for recruitment the post of Traffic Asstt. as a RRB empanelled candidate.

1. In this context it is informed that 03 (three) member medical team has taken the decision for your unfitness in the prescribed medical category and the same has been accepted by CMS, Metro Railway/Kolkata.
2. Once a candidate has been declared unfit by the three member Board, no further appeal shall normally lie with any higher authority, except in specific & exceptional cases as mentioned in Para VIII of Rly. Board's letter 2014/H/5/8 (Policy) dated 31.12.2015, (copy enclosed). In appeal cases (within one month of the date of communication), the candidate should produce a certificate from a Govt./Private doctor of the specialty/specialties in which the candidate has been found unfit, containing the following note also:

"The undersigned is fully aware of the physical or vision standards set by the Railways in respect of the candidate, Shri/Smt./Kumari.....Son/daughter of .....and that also aware that the above candidate has already been certified/declared unfit by the railway authority according to the standard in prescribed medical category for the post against he/she has been empanelled."

Sr. Personnel Officer  
for Principal Chief Personnel Officer."

Nowhere in the said letter, although mandated by the advance correction slip No. 3/2017 to para 522 (1) of IRMM, the Railway authorities had clarified that the identification marks, as furnished by the applicant in the medical examination format, had to be incorporated in the certificates furnished by medical practitioners.

It is unrealistic to expect that an aspirant for the post of a Traffic Inspector would be aware of all the policy decisions of the Railway. We would further decipher that it is only upon ascertaining that her appeal has been rejected on the grounds of violation of the policy of 2017, that the applicant obtained the said policy through RTI, and, thereafter, was able to obtain a further certificate in which the identification marks were duly noted.

As the respondents had failed to advise/inform the applicant of the complete requisites of filing an appeal, we would, in the interest of

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justice, permit the applicant to make a further appeal within 4 weeks of receipt of a copy of this order, to the competent authority and she is at liberty to attach the medical certificate at Annexure A-13 to the O.A. Upon receipt of the same, the concerned respondent authority shall, take up her appeal for further decisions under the provisions of Rule 522 (I)(vi) of IRMM 2000 (as contained in advance correction Slip No. 3/2017) so as to decide on the claim of the applicant.

We note that the certifying authority in annexure A-13 had categorically stated that he is aware of the fact that the candidate has already been declared unfit by the Railway Authorities according to standards in prescribed medical category for the post against which she has been empanelled and also that the said medical practitioner had noted two identification marks as furnished by the applicant in her examination format in the left hand side of Annexure A-13 to the O.A.

The authorities shall endeavor to decide on the applicant's appeal in terms of Railway Board's policy No. 2014/H/5/8 dated 31.12.2015, convey their decision to the applicant forthwith thereafter, and, in the event, her appeal is allowed, proceed to appoint the applicant in the post against which she has been empanelled, as per Rules.

The entire exercise should be completed within 16 weeks from the date of receipt of the appeal from the applicant.

6. With these directions, the O.A. is disposed of. No costs.

*(Dr. Nandita Chatterjee)*  
*Administrative Member*

*(Bidisha Banerjee)*  
*Judicial Member*

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