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Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A.No.1203 of 1987

S.S.Chauhan Applicant

Versus

Railway Service Commission,
Allahabad & Another..... Respondents

Hon.Mr. D.K.Agrawal, J.M

Hon.Mr. K.Obayya, A.M.

(By Hon.Mr. D.K.Agrawal, J.M.)

This application under Section 19 of the Administrative Tribunals, 1985 is directed against non selection of the applicant for the post of Trains Clerk.

2. The facts are that in pursuance of an advertisement by Railway Service Commission, Allahabad the applicant applied for appointment to certain posts in order of preference. He was declared successful in the examination and therefore interviewed on 19.3.91. The applicant was thereafter medically examined for the post of Trains Clerk on 2.3.84 but found unfit. Therefore he was not appointed. The applicant's contention is that he has been making representation after representation but nothing has been heard in reply. The prayer of the applicant is that a direction be issued for change of category of the applicant and subject him to medically examined ^{again} for other category of posts. It has also been prayed that a direction be issued to decide his representation.

3. We have heard the learned counsel for the applicant and perused the record. The first point

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which calls for determination is whether the claim petition is within limitation. The cause of action arose to the applicant on 2.3.84 while the petition was filed on 11.12.87. In accordance with the provisions of Section 21(2), an application has to be entertained by the Tribunal if it is made within the period referred to in clause (b) of Sub Section (1) of Section 21 or within a period of six months from the said date, whichever period expires later. It is also a settled position of law that repeated representations do not save limitation. Therefore the present claim petition is not within time.

4. On merits the position is that the railway employee who has failed to pass a medical examination has to prefer an appeal to the Chief Medical Officer within seven days from the date of adverse report. The applicant did not prefer any appeal against the report of the Medical Officer who found him unfit for the post of Trains Clerk. As regards the change of category, the Railway Board's Circular No. E(NG)62 RCI/95 dated 25.10.62 lays down that "direct recruits who fail to pass the prescribed medical examination should not be considered for employment in alternative categories except in case of a technical category in which case a candidate failing in the prescribed medical examination may be considered for an alternative technical category provided he possesses the requisite qualifications and there is shortage in that category." Therefore, we are of the opinion that this Tribunal cannot issue a mandamus as desired.

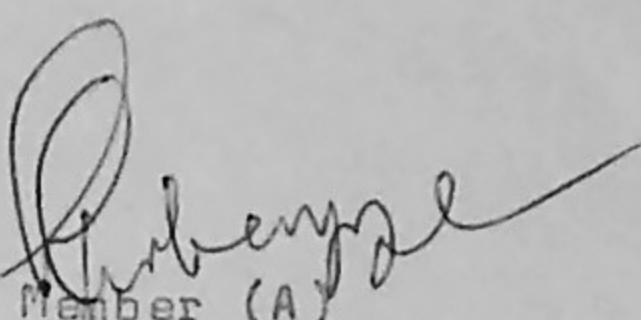
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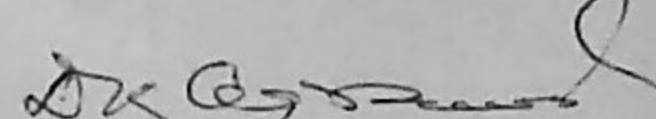
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5. In the above background this claim is liable to be dismissed. However, in passing, we may observe that the Administrative Authorities should always try to dispose of these representations submitted by an aggrieved employee. In the instant case, the allegation is that the applicant's representation dated 4.2.86 contained in Annexure-6, letters dated 3.9.87 and 23.9.87 contained in Annexures 8 & 9 addressed to the General Manager remain undisposed of. We therefore direct that such representation and letters, if received in the office of the General Manager, Northern Railway, shall be disposed of within a reasonable time.

6. The claim petition is dismissed without any order as to costs.


Member (A)


Member (J)
10.7.91

Dated the 10th July, 1991.

RKM