

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 15th day of December 1998.

Original Application no. 1276 of 1992.

Hon'ble Mr. S. Dayal, Administrative Member  
Hon'ble Mr. S.K. Agrawal, Judicial Member

Shiv Murat Ram, S/o Dasoo, r/o Mahewa P.O. Moghal Sarai  
District Varanasi.

... Applicant.

C/A Shri S.K. Dey

Versus

1. Union of India through the General Manager, N. Rly.  
Baroda House, New Delhi.
2. The Divisional Railway Manager, N. Rly., Hazrat Ganj,  
Lucknow.

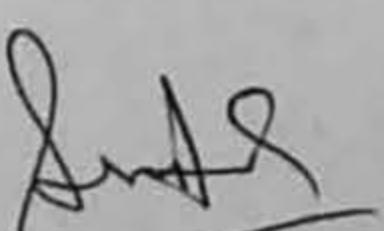
... Respondents

C/R Shri A.K. Gaur.

O R D E R

Hon'ble Mr. S.K. Agrawal, Member-J.

In this O.A. the applicant makes a prayer to direct the respondents to absorb the applicant on regular basis against class IV post on relaxed medical standard as per sl. no. 8394 with all benefits.

  
2. The facts of the case stated by the applicant are that the applicant entered in Railway Service as Casual Labour and by virtue of his continuance in service, he was given C.P.C. scale of pay and become C.P.C., Khalasi.

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He worked for more than 6 years as C.P.C. Khalasi. Therefore, he was sent for medical examination in April 1980 for his regular absorption but was declared unfit. Again he was sent for medical examination vide letter dated 29.06.84. But he was not medically examined on relaxed medical standard and he was returned alongwith report of additional C.M.O., Lucknow dated 25.07.84. Thereafter, D.R.M. N. Railway, Lucknow directed to additional C.M.O. Lucknow for medical examination on relaxed medical standard as prescribed for re-examination vide letter dated 13.08.84. Inspite of this the applicant was not medically examined on relaxed medical standard and he was returned back. It is stated vide letter dated 30.04.85/02.05.85, that the D.R.M., Lucknow is directed to screen the casual labourers, substitutes of Engineering Department. But the applicant having 6 years of continuous service as C.P.C., Khalasi was not considered for regular absorption against regular class IV post. Whereas he was entitled to be absorbed on regular basis against class IV post on relaxed medical standard as laid down in Railway Board's letter dated 29.08.83 at Sl. no. 8394. It is stated by the applicant that the applicant was not allowed for medical examination as relaxed standard in violation of circular dated 29.08.83 without any basis. Therefore, he is entitled to be regularised against class IV post. It is, therefore, prayed for that the respondents be directed to absorb the applicant on regular basis against class IV post on relaxed medical standard as laid down in sl. no. 8394 with all benefits.

  
Counter affidavit was filed. It is admitted in counter affidavit that the applicant was conferred

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temporary status and was given C.P.C. scale. It is admitted that the applicant was impanelled for regular class IV post. It is stated by the respondents that due to required medical standard the applicant was not be given job. It is further submitted that the applicant sought for lower for medical category. He was sent B-1 category but was declared unfit for B-1 vide unfit certificate dated 07.02.80 and, thereafter, the applicant was not taken on duty considering safety point of view and applicant remained absent, thereafter, at his own accord for considerable long period. The applicant was given medical memo again but was declared unfit by A.C.M.S., Lucknow. Therefore, question of relaxed medical standard does not arise in case of the applicant. It is, further stated that the applicant was declared medically unfit twice. Thereafter, question of his regular absorption does not arise and this application is devoid of any merit and liable to be dismissed as such.

4. Rejoinder affidavit was filed stating that the applicant after declaration of medically unfit, sought for lower medical category. But he was not allowed any alternative job for lower medical category inspite of the facts that the applicant has completed 6 years casual service and he was senior most casual labour.

5. Heard, learned lawyer for the applicant and learned lawyer for the respondents and perused the whole record.

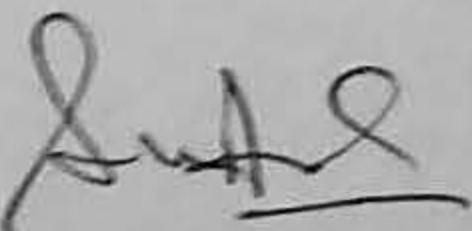
6. It is admitted facts that the applicant was confirmed temporary status and he was given C.P.C. scale. It is also an admitted fact that the applicant was impanelled

for class IV post but he was not given job because he was declared unfit twice.

7. As per Railway Boards letter dated 29.08.83 (PS 8394) in relaxed standard of medical examination as declared in case of casual labours on first appointment to class IV and it has been stipulated that when casual labours with a maximum of 6 years service are included in a panel for appointment to class IV posts and sent for medical examination for first appointment to regular service, the standard of medical examination should not be one that is required for first appointment but should be a relaxed standard as prescribed for the examination during service.

8. As per para IX (a), when a casual labour who have put in six years service whether continuous or in broken period, are included in a panel for appointment to class IV posts and are sent for medical examination for first appointment to regular service, the standard of medical examination should not be the one that is required for first appointment but should be relaxed standard as prescribed for re-examination during service.

9. On perusal of the pleadings we see that the respondents did not follow these instructions while examining the applicant and refused to regularise the applicant merely on the ground that he was found medically unfit twice. The applicant is entitled to be absorb on any group 'D' post after medical examination as per relaxed medical examination provided by circular dated 29.08.93.

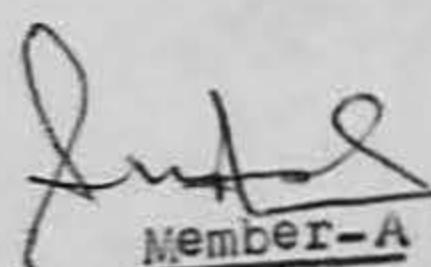


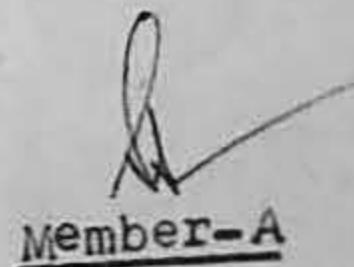
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10. We, therefore, are of the opinion that the applicant could make out his case.

11. We, therefore, allow this Original Application & direct the respondents to consider the applicant for regularisation against any group 'D' post suitable to his medical category by following the relaxed standard of medical examination as provided in Railway Board's circular dated 29.08.93 within three months from the date of receipt of copy of this order.

12. No order as to costs.

  
Member-A 15/12/98

  
Member-A

/pc/