

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.759 OF 1999
ALLAHABAD THIS THE 16TH DAY OF DECEMBER, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

HON'BLE MR. S. C. CHAUDE, MEMBER-A

Manoj Kumar Gupta,
Son of Acchayalal Gupta,
Resident of Village and post Gangaupur,
District-Mau.

. Applicant

(By Advocate Shri A.N. Tripathi)

Versus

1. The Union of India,
through the Secretary,
Ministry of Railways,
New Delhi.
2. The Divisional Rail Manager,
Northern Railway, Delhi Division,
State Entry Road, New Delhi.
3. The Railway Recruitment Board,
SCO, 78-79, Sector 8-C,
Chandigarh.

. Respondents

(By Advocate Sri A. Tripathi)

O R D E R

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

By this O.A. applicant has sought the following
reliefs:-



"i) a suitable order or direction to the respondent no.2 to issue appointment letter to the applicant for the post of Apprentice Junior Engineer Grade-II (Electrical) Rs.1400-2300/RPS in furtherance of selection of the applicant made for the said post vide letter No.RRB/CDJ/EN-I/97/Gr.11 dated 5.1.1999 issued by the respondent no.3.

ii) any other suitable order, or direction as this Tribunal may deem fit and proper in the circumstances of the case in the interest of the applicant.

iii) award cost of this application to the applicant."

2. It is submitted by the applicant that respondents issued an advertisement on 02.08.1997 wherein relaxation was also mentioned for several categories of persons including physically handicapped candidates. There were total 48 posts, out of which 6 posts were reserved for SC candidates, 4 posts were reserved for ST candidates, 12 posts for OBC candidates and 5 posts were reserved for Ex-serviceman and 21 posts for general candidates for the post of Apprentice Junior Engineer Gr.II(Electrical) in the grade of Rs.1400-2300/RPS (Annexure-1). It was specifically mentioned therein that physically handicapped persons would be exempted from examination fee and they should file their proper certificate from competent authority. Since applicant was eligible, he applied for the post by attaching his certificates to show that he was a physically handicapped person. He passed written as well as in the viva-voce test and was shown as a selected candidate in the final result 16/25-12-1998. Applicant was having the roll No.6907 which is evident from Annexure A-2. He was further informed that on 05.01.1999 ^{that he} his name has been forwarded to the Divisional



Railway Manager, Northern Railway for issuing offer of appointment after completion of necessary requisite formalities (Annexure A-3). His medical was got done but since there was no reservation for physically handicapped quota as such he was declared as not fit in B-I category. It is against this medical memo that applicant has approached this Tribunal by submitting that he was second in the merit list and simply because he was physically handicapped he could not be deprived appointment as J.E. Grade-II.

3. It is submitted by the applicant that denying ~~his~~^{to him} appointment ^{is} contrary to the provisions of persons with disability (Equal Opportunities, Protection of Rights and Full Participation), Act 1995. Moreover respondents were fully aware about his being physically handicapped yet they invited him to attend the written examination as well as interview. Thereafter they could not have denied the appointment ^{ultimately} simply because he was physically handicapped because of having polio in one leg.

4. Respondents have opposed this O.A. and have explained that even though applicant was selected as A.P.P. J.E.-II (Electric) against direct recruitment quota ^{through} ~~to~~ R.R.B. Chandigarh and he was offered the post of J.E. (Electric) vide office letter dated 12.03.1999 but when he was sent for medical examination, he was declared ~~medically~~ unfit in B-I medical category, therefore, he could not be appointed as Apprentice JE-II (Electric) as per extant rules, because

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the post of J.E. (Electric) is a classified post under the safety category where no relaxation is permissible in terms of PS no.8091. Since applicant was a physically handicapped person, he was not eligible for the post of JE-II(Electrical) which is a safety category and the Medical Standard which was stipulated was clearly mentioned as B-One. They have further submitted that instructions referred to by the applicant in the para are relevant only ~~to by the applicant in the para are relevant only~~ to those category mentioned in the advertisement and not to the post of J.E.-II(Electrical). They have thus, prayed that the O.A. may be dismissed.

5. We have heard counsel for the respondents and perused the pleadings as well.


6. It is seen that in the advertisement itself it was mentioned that the persons would have to pass in medical category B-One for the post of J.E.-II (Electrical). It is also not disputed and is in fact admitted that applicant is suffering from Polio and is a physically handicapped person. Since the post of J.E.-II Electrical is a safety category post, therefore, medical requirement cannot be compromised. Simply because applicant was allowed to appear in the examination it would not entitle applicant to be appointed on the post of J.E.-II(Electrical). This was categorically mentioned in the letter dated 12.03.1999 also, wherein it was clearly stated that he would be sent for training only if he qualifies in medical category B-I.



Respondents have/
placed on record the medical memo which clearly shows that
he was found unfit in B-I category. These medical memos
have not been challenged by the applicant. There^{fore} the fact
remains that the applicant is a physically handicapped
person and since the post of J.E.-II (Electrician) is a
safety category post, no compromise can be made for the
said post. Accordingly the relief as claimed by the
applicant cannot be granted.

7. The O.A. is accordingly dismissed with no order
as to costs.


Member-A


Member-J

/ns/