

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 6TH DAY OF NOVEMBER, 2000

Original Application No.847 of 1999

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Nayab Hussain, Son of Shri Anwar Ali
R/o Azad Nagar West Barhaj,
Deoria.

... Applicant

(By Adv: Shri S.K.Chaubey)

Versus

1. Union of India through General Manager
(Karmik) Northern Railway
Gorakhpur.
2. Mukhya Karmik Adhikari, North
Eastern Railway, Gorakhpur.
3. Chief Medical Director, North
Eastern Railway Gorakhpur.

... Respondents

(By Adv: Shri G.P.Agrawal)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.,)

By this application u/s 19 of the A.T.Act 1985 the applicant has prayed that respondents be directed to allow the applicant to join on the post of Junior Clerk for which he was selected and appointment letter was issued on 27/28.11.1998. It appears that the applicant was medically examined and he was found unfit for the post. His heart was not found normal. The applicant was examined twice as clear from the letter dated 7.7.1999 addressed to the applicant and thereafter his candidature has been cancelled. As the applicant is not medically fit, we do not find any good ground for interference in the matter. The application is liable to be dismissed, for this view, ["] We find support from judgement ^{of} ~~that~~ Hon'ble Supreme Court, in case of ^{of} Sankarsan ["] ^UDas vs Union of India and others, 1991 (3) S.C.C. 47, ["] .p2

[Signature]

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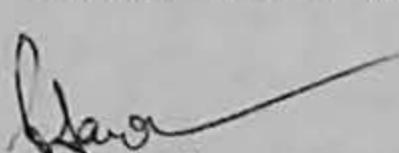
The learned counsel for the applicant however placed before us the Medical Examination Rules contained in Indian Railway Establishment Manual. Part VI relating to Medical Examination Rules in Para 4 of Clause 'A' with Heading General provides as under:-

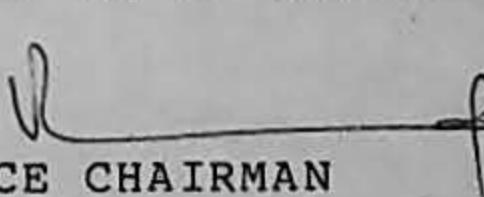
"There is no right of appeal from a Medical Board. If, however, government is satisfied on evidence produced before it of the possibility of an error of judgement, it may allow an appeal to a second Board. Such evidence must be submitted within one month of communication of decision of first Medical Board."

(1016 EM)

The submission of the learned counsel for the applicant is that applicant may be permitted a second opportunity of Medical Examination by a Second Board. In our opinion for this purpose applicant may approach the Government under the aforesaid paragraph 4 which may be considered and decided in accordance with law expeditiously.

Subject to aforesaid observation the application is dismissed. However there will be no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 6.11.2000

Uv/