

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.792 of 2003.

Allahabad, this the 28th day of Feb, 2005.

Hon'ble Mr. A.K. Bhatnagar, J.M.

Kamal Prasad,
aged about 52 years,
Son of Shri Mahavir Prasad,
Resident of 198 Nainagarh,
Nagra Jhansi.

.....Applicant.

(By Advocate : Shri R.K. Nigam)

versus

1. Union of India,
through General Manager,
North Central Railway,
Allahabad.
2. Divisional Railway Manager,
North Central Railway, Jhansi.
3. Chief Medical Superintendent,
North Central Railway, Hospital,
Jhansi.

.....Respondents.

(By Advocate : Shri Mohd. Yusuf)

ORDER

By Hon'ble Mr. A.K. Bhatnagar, J.M :

By this OA, the applicant has prayed for quashing the impugned order dated 3.2.2003 (Annexure-A-I). He has further prayed for a direction to respondents to immediately declare the applicant medically decategorised and further immediately issue compassionate appointment in favour of his son Surendra Prasad in an appropriate category for which a time bound direction is solicited.

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2. The brief facts of the case as per the applicant are that while working as Assistant Driver he met with a serious accident, resulting him serious injuries and his right leg and part of left hand had also been amputated on 13.12.1999. He got examined by the Chief Medical Superintendent, Central Railway, Jhansi and was declared 100% Permanent Partially Disabled on 25.7.2002 (Annexure-III). Since the applicant was not in a position even to walk without the help of someone, he requested for his medical decategorisation and demanded compassionate appointment in favour of his son. Ultimately, the request of the applicant was turned down by the respondents by letter dated 3.2.2003 (Annexure-A-I). As per the applicant, he has filed the representation on 15.2.2003 and a legal notice on 21.4.2003 but no action has been taken by the department so he filed this OA. Learned counsel for the applicant pressed on the grounds taken in para 5 of the OA and finally submitted that there is a mandatory provision that in such case the Railway employee is required to be declared medically decategorised when he is totally incapable to stand or walk. Therefore, he should be decategorised and in his place his son should be given appointment on compassionate ground. Learned counsel also invited my attention of letter dated 28.9.2001 (Annexure A-6) by which his case was recommended to Chief Medical Superintendent, Jhansi, by his controlling authority for reviewing the case of the applicant.

3. Resisting the claim of the applicant, learned counsel for the respondents filed counter affidavit and submitted that the applicant while running loco

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17500 met with an accident on 13.12.1999 resulting serious injuries to him. The Medical Board was constituted and it found the applicant unfit to work in A-I category as Assistant Driver and fit to perform any sitting sedentary job, as his dominant hand is functional, in the category of C-I and below, as stated in Para 4.1 of counter (Annex.CA-I). He further contended that the Medical Board decides the fitness of the employee on the basis of which alternative job is decided and provided by the screening committee. Learned counsel finally submitted as the applicant was found suitable for sedentary job. Accordingly, he was placed in the department. Therefore, there is no illegality in the order passed by the respondents on 3.2.2003 (Annexure-A-I).

4. I have heard the learned counsel for the parties and perused the records.

5. The only argument of the learned counsel for the applicant is that in any case the applicant be declared medically unfit by decategorisation and his son should be given compassionate appointment in his place. I am not impressed by the arguments advanced by the applicant's counsel. I have also gone through Annexure-I impugned letter dated 3.2.2003 in which it is clearly mentioned that the alternative appointment is granted by the Screening Committee and there is no provision to appoint the applicant's son due to decategorisation of the applicant. I have also gone through Annexure-CA-I filed alongwith the counter dated 1.4.2002 in which it is mentioned as under :-


"

Unfit to work in A-I category as Asstt.
Driver & fit to perform any sitting sedentary

Job as his dominant hand is functional in the category of Cee one & below."

6. It is an admitted fact that the applicant is working on a sedentary job in the department because he was found fit by the Medical Board for doing that job. The department has rightly granted him job keeping in view of the report of the Medical Board so I find no illegality in the order dated 3.2.2003 passed by the respondents. The applicant cannot force the department for appointing his son declaring him unfit for any job in the Railway, ignoring the report of the Medical Board by which he has been found fit for the sedentary job.

7. In view of the above, I find no merits in this case and it is dismissed accordingly. No order as to costs.


Member (J)

RKM /