

RESERVED

CENTRAL ADMINISTRATAIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated this the 9th day of July 2009.

CORAM:

HON'BLE MR. A. K. GAUR - MEMBER -J
HON'BLE MRS. MANJULIKA GAUTAM- MEMBER-A

Original Application No. 589/2007
(U/s 19 of Administrative Tribunals Act 1985)

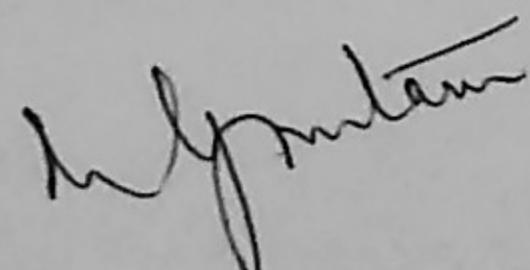
Alok Pandey,
S/o Sri Shyama Kant Pandey,
Permanent residen of, Care of,
Smt. Kumud Pandey,
18/28 Shastri Nagar, Atarra,
Banda – (U.P.)-210201. . . . Applicant

By Adv: Sri S.Narain

V E R S U S

1. Union of India through the Secretary,
Ministry of Railways,
Government of India,
New Delhi.
2. The Railway Board through its Chairman,
Rail Bhawan,
Baroda House, New Delhi.
3. The Deputy Director,
Establishment (GR),
Railway Board,
Baroda House, New Delhi.
4. The Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances and Pension,
Government of India, New Delhi. . . . Respondents

By Adv: S/Shri Anil Kumar & Tarun Verma

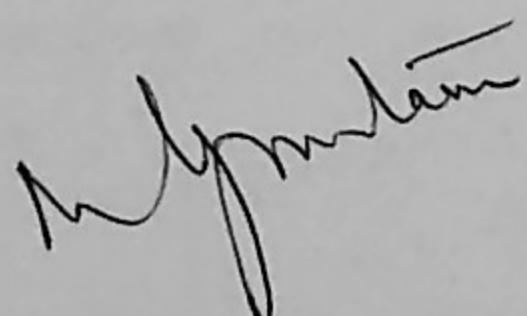


ORDERHON'BLE MRS. MANJULIKA GAUTAM- MEMBER-A

The applicant, an Electrical Engineer appeared for the Engineering Services Examination, 2005. He was declared successful and directed to come for medical examination vide communication dated 21.6.2006 placed at Annex. A-2 Comp.II.

2. Vide letter dated 7.8.2006 the applicant was informed that he was found medically fit only for the Indian Railway Stores Service. The ground for declaring him unfit was defective colour perception and sub standard vision. The applicant did not appeal against the findings of the Medical Board as he was hopeful that he would be appointed in the Indian Railway Stores Service for which he had been found fit.

3. However, no letter of appointment was issued to the applicant whereas the other candidates who appeared in the same examination were given appointment order and called for training. On pursuing the matter it was stated that, he was not offered appointment for want of a vacancy. Aggrieved by this the applicant has filed the O.A. in question and sought the following reliefs.:



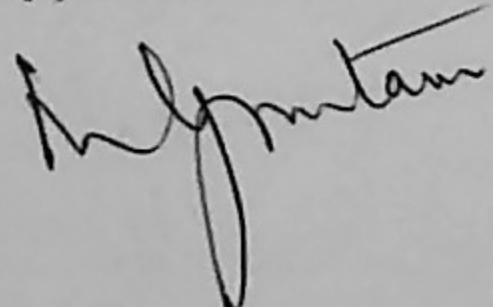
i. To issue a suitable order or direction to the respondents directing them to consider the applicant for appointment to the Indian Railway Stores Service GR A, qua the Engineering Service Examination, 2005, and to appoint him as such, along with all consequential benefits, w.e.f. the date the other candidates from the said examination were so appointment.

ii. Issue such other orders or directions and grant such other reliefs as might be deemed just and proper in the facts and circumstances of the case.

iii. Award the costs of this application in favour of the applicant, throughout.

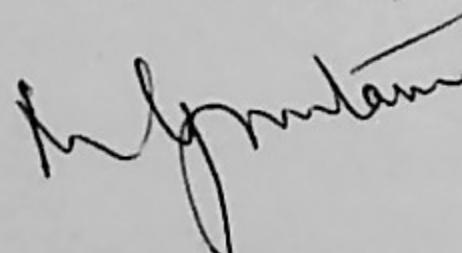
4. Counsel for the applicant has vehemently argued that since the applicant was declared successful and found fit for the Indian Railway Stores Service, particularly in view of the fact that he was found fit for only for one service because of visual disability he should have been given an appointment.

5. In the counter affidavit filed by the respondents the procedure for selection and appointment for the Engineering Services Examination conducted by the Union Public Service Commission has been clearly explained. The facts of the case are that the applicant was ranked No.29 in order of merit. But the Medical Board found him fit only for the Indian Railway Stores Service. The applicant had also been given the opportunity to

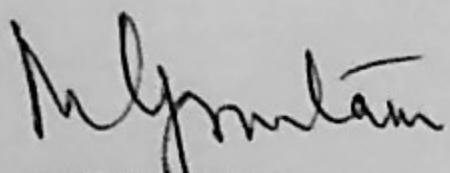
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appeal against the findings of the Medical Board, which he did not avail of. As has been explained in para 4.10 of the counter affidavit, there were only two vacancies in the IRSS (EE) in the unreserved category. These two vacancies were allotted to candidates who had secured ranks 16 & 18, whereas the applicant was placed at rank 29. It has also been clarified in para 5.3 of counter affidavit that in order to get the benefit of the Disability Act, a candidate has to apply as physically handicapped candidate and it is then for U.P.S.C. to accept such a candidate and recommend him/her against vacancies reserved for physically handicapped candidates. It has also been clarified that the candidate who has been declared unfit by the Medical Board cannot be considered against the vacancies reserved for the physically handicapped candidates. Counsel for the respondents also drew the attention of the Bench to O.A.No.718/97, Allahabad Bench wherein by order dated 19/10/05 even after being selected and found fit, appointment can only be made if there is a vacancy in the category for which the candidate has been approved.

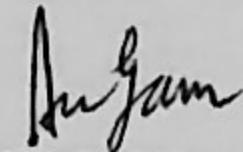
6. After hearing learned counsel representing both the parties, perusing the records on file as well as relying on the judgement of this Bench in O.A.718/1997, we are of the opinion that there is

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no cause for intervention in the matter. O.A. is accordingly dismissed. No costs.



MEMBER(A)



MEMBER(J)

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