

B (9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 155/88

~~155/88~~

DATE OF DECISION 20.8.1992

Jaggannath Ganpat Patil Petitioner

Applicant in person Advocate for the Petitioner(s)

Versus

Union of India, and Ors. Respondent

Mr. N.S. Shevde, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan : Vice Chairman

The Hon'ble Mr. R.C. Bhatt : Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Jaggannath Ganpat Patil,
aged about 53 years,
occupation: Service
Residing at Railway Quarter
No. 608/A,
New Railway Colony,
Sabarmati, Ahmedabad.

.... Applicant.

Versus.

1. Union of India,
The Chairman,
Railway Board,
New Delhi.
2. General Manager,
Western Railway,
Churchgate, Bombay.
3. Chief Medical Officer,
Western Railway,
Churchgate, Bombay.
4. Medical Superintendent,
Pratapnagar, Vadodara.

..... Respondents.

(Advocate: Mr. N. S. Shevde)

ORAL ORDER

O.A.No. 155/88

Date: 20.8.1992.

Per: Hon'ble Mr. R.C. Bhatt, Judicial Member.

Heard, applicant-in-person and Mr. N. S. Shevde,
learned counsel for the respondents.

2. This application is filed under section 19 of the Administrative Tribunals Act 1985 by the applicant seeking the relief that the General Manager, Western Railway, Churchgate, Bombay, i.e., respondent No. 2 be directed to quash and set aside the letter at Annexure A dated 12th June, 1987 wherein the decision of C.M.O., Churchgate, respondent No. 3 and Medical Superintendent, respondent No. 4 was confirmed and to consider the appeal of the applicant to declare him as fit for the post of Assistant Personnel Officer

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looking to the nature and type of work involved in his post and the respondents be directed to promote the applicant to the post of A.P.O. in terms of panel issued by the General Manager at Annexure A-3.

3. The case of the applicant as found in the application is that the applicant was called for selection for promotion to Class II as Assistant Personnel Officer : personal department and consequent upon the selection held in response to the notification was placed on the panel for promotion to Class II post of A.P.O. in order of merit and his name was found at Sr.No.11 in the letter Annexure A-3. According to the applicant, thereafter according to his turn the respondent No.2 vide order dated 11th September 1986 had issued order by which the applicant was promoted and posted as officiating A.P.O.(Class II) Rajkot vice Shri I.C. Shrimali subject to his passing the prescribed medical examination vide Annexure A-4. It is not in dispute that the applicant was then asked to appear for medical examination before Medical Superintendent, Vadodara by Dy.C.E (Engineering Workshop), that the applicant went to Vadodara on 23rd September, 1986 where he was examined and on medical examination he was found that he had blood pressure and required to take bed rest atleast for 15 days and the applicant was asked to approach D.M.O. Sabarmati to keep the applicant on sick list for the period from 26th September, 1986 to 9th October, 1986. The

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applicant thereafter on 9th October, 1986 again contacted M.S. Vadodara who examined him and issued fitness certificate. The applicant was then asked by M.S. Vadodara to contact the ~~dealing~~ clerk to obtain memo directing the applicant to approach D.M.O. Sabarmati to obtain fitness certificate and then to proceed for Rajkot to take charge of the post of A.P.O. The applicant submitted the fitness certificate to the ^{concerned} clerk who contact^{ed} the medical superintendent and the applicant was called thereafter by M.S. Vadodara and the fitness certificate issued was taken back from him and unfit certificate was issued to the applicant vide Ann. A-2.

4. The applicant, thereafter, represented before the C.M.O., Churchgate, Bombay in form of appeal ~~which~~ ^{who} vide Annexure A-5 dated 16th October, 1986 / turned down the request of the applicant and confirm the decision of M.S. Vadodara vide Ann. A-1. Then the applicant made representation to the General Manager by his application dated 19th December, 1986 vide Annexure A-6 who also turned down his application which is produced at Annexure A.

5. The respondents have filed reply resisting the application. The applicant who appeared in person, submitted that the medical test which was required by the authority concerned as per the respondents order is not legal and proper because he was not promoted

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on such a post which was a safety category and therefore the medical test particularly vision test which has been followed by the respondents should be ignored as it is not required as per the rules. The applicant himself has produced at Annexure A-3 the guidelines for medical examination of railway employees on promotion from non-gazetted to gazetted in para 530 post. There is a specific guidelines requiring the visual acuity test for (A) post connected with train working trolley on or use of of open line and (B) rest of the post. Therefore, the question which is to be considered in this case whether the applicant has satisfied the degree of visual acuity required for the officers falling in this class (B). Reading further para 532(2) shows that for category (B) mentioned in para 530 above, the following standards will be applicable " Distant vision: 6/18 in one eye, regardless of vision in the other eye with or without glasses. Near Vision: Sn.c.6 in one eye, regardless of vision in the other eye, with or without glasses."

6. The applicant who was examined by the Chief Medical Officer has passed an order dated 3rd December vide Annexure A/1 1986/who found the applicant unfit for promotion to Class II as per Rule and the decision of M.S. Baroda vide Annexure A/2 was confirmed. The M.S. Baroda had already found him unfit for the post in Class II as per his order dated 9th October, 1986 vide Annexure A-2.

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Ultimately / applicant's appeal was also turned down vide General Manager order Annexure A dated 12th June, 1987 on the ground that taking into account the degree of visual acuity of the applicant as per the report of medical authority and also keeping in view of the functions of an A.P.O. his request for relaxation in medical standard cannot be acceded to. The applicant has not shown us any rules other than the rules produced at Annexure A-7 and applying the same the applicant was not found fit in vision test. The applicant submits that the fitness certificate was given to him for the post of A.P.O. initially by M.S. Vadodara but the same was taken back by the M.S. later on. Except this bear allegation which is specifically denied by respondents, to that there is no evidence / show that such certificate had been given to the applicant by M.S. Vadodara declaring him fit for the post of A.P.O. and therefore no reliance could be placed on such a vague allegation which has also been denied in respondents' reply. Having considered ~~the~~ fully all the facts and documentary evidence on record we to establish hold that the applicant has miserably failed / his case and hence the application deserves to be dismissed.

ORDER

The application is dismissed. No orders as to costs.

R.C. Bhatt
(R.C. Bhatt)
Member (J)
vtc.

N.V. Krishnan
(N.V. Krishnan)
Vice Chairman