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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH  
~~XXXXXXXXXXXX~~

O.A. No. 222 of 1988  
~~P.A. No.~~

DATE OF DECISION 30.8.1989

Mr. Hirabhai B. Rathod Petitioner  
Mr. C.S. Upadhyay Advocate for the Petitioner(s)  
Versus  
Union of India & Ors. Respondent  
Mr. N.S. Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. M. Joshi .. .. Judicial Member

The Hon'ble Mr. M. M. Singh .. .. Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

Hirabhai B. Rathod,  
No. 60, Railway Colony,  
B/h. Railway Hospital,  
Anand - 388 001.

.. Petitioner

(Advocate-Mr. C.S. Upadhyay)

Versus

1. Union of India,  
Through  
General Manager, W.Rly.,  
Churchgate, Bombay.
2. Divisional Railway Manager,  
(Engineering-V) W.Rly.,  
Pratapnagar, Vadodara.

3. Medical Superintendent,  
Western Railway,  
Pratapnagar, Vadodara.

.. Respondents

(Advocate-Mr. N.S. Shevde)

CORAM : Hon'ble Mr. P.M. Joshi .. Judicial Member

Hon'ble Mr. M.M. Singh .. Administrative Member

O R A L - O R D E R

O.A./222/88

30.8.1989

Per : Hon'ble Mr. P.M. Joshi .. Judicial Member

The petitioner Shri Hirabhai B. Rathod, who was working as "VALVEMAN" (Class IV employee) in the Western Railway at Anand, has filed this application on 30.3.1988 under section 19 of the Administrative Tribunals Act, 1985. He has claimed the substantive reliefs in the following terms:-

- "1) To treat the period from 16.9.1984 to 25.1.1986 and 27.8.1987 to till the date of decision as on duty and all its consequential benefits flowing from there.
- 2) To declare in-capacitation permanently from Railway service and all their consequential benefits attached therein with effect from 16.9.1984."

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2. According to the case set up by the petitioner, the respondent authorities ought to have ~~been~~ declared him "medically unfit" due to the nature of the ailment which he was suffering since the year 1984. It is alleged that the inaction on the part of the respondent authorities have deprived him of the benefits available to him on his being declared medically unfit and he would have been offered an alternative job.

3. The respondents have opposed the application and it was contended inter alia that the petitioner was given all the medical treatment during his service and he was declared fit to resume his duties and consequently ~~he~~ he resumed his duties on 26.1.1986 and worked till 26.8.1987 i.e. for more than one and half years. Again, he fell sick on 27.8.1987, but it was ~~further~~ submitted that the condition of the petitioner was not such that he should have been declared medically unfit to perform duty which was assigned to him. It was thus stated that the petitioner is not entitled to the relief, as prayed for, as he has already retired on his attaining the age of superannuation with effect from 31.3.1988.

4. When the matter came up for hearing, we have heard Mr. C.S. Upadhyay, the learned counsel for the petitioner. During the course of his argument, Mr. Upadhyay invited our attention to Annexure A-1 (P.B. page 10) dated 19.3.1988 and strenuously urged that in view of the nature of the ailment stated therein, he ought to have been declared medically unfit and he ought to have been given the necessary benefits available under the rules. In support of his submissions, he relied on the case of Smt.

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Munni Devi v/s. General Manager, Northern Railway  
and others (ATR 1986 vol. I page 105).

5. It is pertinent to note that the petitioner, during his service and until ~~to~~ his retirement, ~~he~~ was not declared medically decategorised on the basis of the nature of his ailment by the respondent authorities. It is true that the petitioner, however, made an attempt to pursue his claim for medical decategorisation, but in view of the nature of his ailment, he was admittedly not declared medically unfit by the competent authority. As a matter of fact, even after his sickness from 16.9.1984 to 25.1.1986, on the basis of the fitness certificate obtained by him, he had resumed his duties from 26.1.1986. It is undisputed that he worked for more than one and half year even thereafter. The petitioner has not produced any relevant rules governing him which entitles him to the benefits that he has claimed in this application.

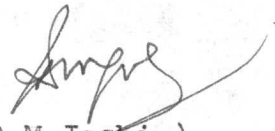
6. In the case of Smt. Munni Devi (supra) cited by Mr. Upadhyay, also does not help him. In the said case, the petitioner had claimed employment for her daughter on compassionate grounds. In support of her claim, she had relied on the circular No. E(NG) III/78/RC1/1 dated 7.4.1983 which governed the appointment on compassionate grounds. In the present case, there is no ~~such~~ a plea, case or the relief sought for any such employment on compassionate grounds. The petitioner, however, will be free to make out his case for such relief before the competent authority. However, we have

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in case the petitioner pleads for such relief, it will  
no doubt, that ~~his such plea will~~ be considered  
by the competent authority, without being influenced  
by the result in this application.

As stated earlier, the petitioner has failed  
to establish his claim, Accordingly, the application  
stands dismissed, as it is devoid of merits whatsoever.  
Application, therefore stands disposed of with no  
order as to costs.

M. M. Singh.  
( M M Singh )  
Administrative Member

  
( P M Joshi )  
Judicial Member

\*Mogera