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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.387 of 1989.

Date of decision : May 3, 1990,

Dillip Kumar Swain ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s. Dr. S. C. Dash,
B. K. Patnaik,
R. C. Rout,
H. N. Panda, Advocates.

For the respondents ... M/s. B. Pal,
O. N. Ghosh, Advocates.

C O R A M:

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

J U D G M E N T

N. SENGUPTA, MEMBER (J) The applicant's grievance is that he was the candidate for the post of Firest Fireman/Diesel Assistant and he was also empanelled. He was offered an appointment by letter dated 1.12.1988 subject to the condition of his appearing for medical examination and being found fit.

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After that till the filing of the application i.e. September, 1989 he received no order of appointment though he had appeared before the Railway Medical Officer for being examined. Subsequently, it was learnt by him that Respondent No.3 i.e. Medical Superintendent, South Eastern Railway, Khurda Road reported him to be unfit. After that he asked for details of his medical deficiencies but he was supplied no information. He made a representation and it is stated in the application that the representation has not been properly considered. Making these allegations, he has made two prayers i.e. to direct Respondents 1 and 2 to appoint him and ^{alternatively} ultimately if he ~~is~~ found to be unfit by the Medical Superintendent, S.E. Railway, Khurda Road, a direction for getting him re-examined by a competent Medical Officer be issued.

2. The Railway Administration in their Counter have not disputed the fact of the applicant having made an application for the post of First Fireman/ Diesel Assistant nor have they denied the applicant's averments that he was asked to appear before the Medical Officer at Khurda Road so as to be appointed. Their case is that he was reported to be medically unfit and that is why he could not be appointed. They have further stated that if the applicant makes an application in that regard to the Chief Medical Officer, South Eastern Railway, Garden Reach, Calcutta, he may

Mr. Singh
3.5.90.

consider and give appropriate orders.

3. We have heard Dr. S. C. Dash, learned counsel for the applicant and Mr. B. Pal, learned Senior Standing Counsel (Railways) for the respondents. From Annexure-R/4 it would be found that the Medical Superintendent, South Eastern Railway, Khurda Road, reported the applicant to be unfit for appointment i.e. unfit in Aye-one. Once a Medical Officer after examination declares a person to be unfit, it would not be open for the Tribunal to give a direction to the Respondents to appoint him. Therefore, the only other course which is open to this Tribunal is to direct re-examination of the applicant by a superior or any other Medical Officer. The Chief Medical Officer, South Eastern Railway, Garden Reach, we are told, is the controlling authority so far as the Medical Officers working in that Railway are concerned. In our opinion, if any application is made by the applicant to the Chief Medical Officer, S.E. Railway, Garden Reach, Calcutta for his re-examination by the said Chief Medical Officer, he would consider the same and re-examine him. The ultimate result would depend on the report of the examination. The applicant is directed to make the required application within one month hence and thereafter the Chief Medical Officer, S.E. Railway, Garden Reach to get him examined within two months thereafter after informing the applicant of the date when he is required to be present.

*Seen Encl.
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4. This application is accordingly disposed of leaving the parties to bear their own costs.

Dr. M. L. ... 3.5.90
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Vice-Chairman

A. L. ... 3.5.90
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Member (Judicial)

