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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No.109 of 1991

Date of Decision: July, 7, 1992

Somanath Mishra

Applicant

Versus

Union of India & Others

Respondents

For the applicant

Mr. G. A. R. Dora, Advocate

For the respondents

Mr. Ashok Mohanty,  
Standing Counsel (Railway)

...

C O R A M

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

AND

THE HONOURABLE MR. M. Y. PRIOLKAR, MEMBER (ADMINISTRATIVE)

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

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THE HONOURABLE MR. M. Y. PRIOLKAR, MEMBER (ADMN.)

...

J U D G M E N T

M.Y.PRIOLKAR, MEMBER (A), In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to issue a direction to the respondents to allow the applicant to join in the post of Permanent Way Inspector (Grade III) in pursuance to the letter of appointment issued by the competent authority contained in Annexure-2 and furthermore, to direct the respondents to send requisition to the Superintendent, M.K.C.G. Medical College, Berhampur for issuance of authenticated medical <sup>test</sup> report regarding the presence of binocularity in respect of the applicant's vision.

2. Shortly stated, the case of the applicant is that an advertisement was published calling for applications to fill up the post of Permanent Way Inspector (Grade III).

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There were several applicants including the present applicant who had passed A.M.I.E. Civil Engineering course and had <sup>taken</sup> stood the test for appointment to the post in question. A panel was prepared containing 27 successful candidates out of whom the applicant was placed against serial number 1. Vide Annexure-1 dated 13.12.1990 letter of appointment was issued with a condition that he should be declared medically fit. The applicant appeared before the concerned Doctor attached to the Railway Medical Hospital at Khurda Road for medical check up and fitness certificate. Unfortunately, the said Hospital did not possess the necessary machine through which Binocularity test could be conducted. Hence, the applicant was referred to the Hospital at Gardenreach, Calcutta. According to the applicant, he had appeared before a particular Doctor in the Garden Reach Hospital but the Doctor got annoyed owing to non-observance of certain formalities by the applicant and a letter was sent through the applicant by the said Doctor to the Doctor in Khurda Road Hospital stating that the applicant had defective vision resulting from the test in question. The applicant made a complaint to the Doctor at Khurda Road stating that as a matter of fact he had not been examined by the Doctor at Garden Reach. While the matter stood thus, the applicant out of his own volition appeared before the Assistant Professor in the Department of Ophthalmology in M.K.C.G. Medical College, Berhampur for undergoing a test of the aforesaid nature and the said Assistant Professor gave a report that the applicant was free from the defect and despite the fact that the certificate was filed before the

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appropriate authority , the applicant has not been allowed to join in the post in question and, therefore, he made a representation to the Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta contained in Annexure-4 for redressal of his grievance. Since this did not yield any fruitful result, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents denied the allegation of the applicant with regard to non-examination by the Doctor in Garden Reach, Calcutta. Hence, it is maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. G. A. R. Dora, learned counsel for the applicant and Mr. Ashok Mohanty, learned Standing Counsel (Railways) for the respondents. Mr. Dora contended that the certificate issued by the Asst. Professor of Ophthalmology of the M. K. C. G. Medical Hospital, Berhampur should be acted upon and direction should be issued to the appropriate authority for accepting the joining report of the applicant. On the other hand, Mr. Ashok Mohanty, learned Standing Counsel (Railways) contended that the Railway Administration having its own authorised Medical Officer to conduct the test, the Railway Administration would rightly feel reluctant to act on the report of the Asst. Professor of Ophthalmology Department of M. K. C. G. Medical College, Berhampur. After giving our anxious consideration to the arguments advanced at the Bar we direct that the applicant be examined by an Ophthalmologist attached to the

Medical Hospital at Garden Reach especially in view of the averments made in paragraph 7 of the counter that a request has been made to the Medical Officer, Khurda Road for a complete examination report. We further direct that the Chief Medical Officer, Garden Reach would cause the examination to be conducted in regard to the present applicant particularly relating to the test of aforesaid nature through an expert within 15 days from the date of receipt of a copy of this judgment or in the alternative within three days from the date of presentation of a copy of the judgment before the Chief Medical Officer, Garden Reach by the applicant and a report should be submitted to the competent authority <sup>regarding the</sup> ~~resulting from~~ the binocularity test. The Chief Medical Officer would be well advised to cause investigation through a Doctor other than the Doctor who is said to have conducted the earlier examination. We hope and trust the Doctor conducting the test would also take into consideration the report of the Asst. Professor of the Department of Ophthalmology attached to the M.K.C.G. Medical College, Berhampur.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

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VICE-CHAIRMAN

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MEMBER (ADMN.)

Central Administrative Tribunal,  
Cuttack Bench, Cuttack  
July 7, 1992/Sarang.

