

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No.428 of 1991

Date of Decision: 19.1.1993

## Versus

Union of India & Others Respondents

For the applicant

M/s.J.Das,  
B.S.Tripathy  
K.P.Mishra  
B.K.Sahu  
S.Mallik,  
S.Misra &  
P.K.Mohapatra,  
Advocates

### For the respondents

Mr. R. C. Rath,  
Standing Counsel  
(Rly. Administration)

C O R A M

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

AND

THE HONOURABLE MR. S. B. ADITGE, 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

JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to the opposite parties to ~~reappoint him as the~~ Enquiry-cum-Reservation Clerk in the South Eastern Railway and to direct OP No. 2 to forthwith allow the petitioner to join in the said post and there are some other ancillary prayers which need not be specifically mentioned.

2. Shortly stated the case of the petitioner is that, pursuant to the advertisement published in the year 1989, for filling up of the posts of Enquiry-cum-Reservation Clerk, the petitioner had made an application for appointment to one such post. The petitioner had taken the written examination and had turned out successful and hence provisional appointment order was issued in favour of the petitioner contained in Annexure-1 dated 25.4.1990. The petitioner was then asked to appear before the Medical Board. According to the petitioner he did appear after depositing requisite fees but he was not tested and was asked to go back. Without applying mind, the competent authority ~~did~~ not allow the petitioner to join the post in question. Hence this application with the aforesaid prayer.

3. In their counter the opposite parties maintain that the petitioner is blind. Hence not suitable for appointment to the post of Enquiry-cum-Reservation Clerk and that apart the petitioner not having complied with the orders of the competent authority in appearing before the Medical Board, he was rightly disallowed from joining the post in question. The case being devoid of merit is liable to be dismissed.

4. We have heard Mr. K. P. Mishra, learned counsel for the petitioner and Mr. R. C. Rath, learned Standing Counsel for the Railway Administration at a considerable length.

5. The petitioner had stated in his application in response to the said advertisement that he was blind. This is admitted. Further admitted case of the parties is that the petitioner had appeared at the written examination and had taken the interview and the petitioner had turned out successful as a result of which Annexure-1 was issued in his favour giving him provisional appointment. The concerned authority was well aware of the fact that the petitioner was blind. Knowing fully well that the petitioner was blind, the concerned authority acted upon the result of the examination taken by the petitioner and the petitioner having turned out successful, provisional appointment order was issued contained in Annexure-1. We find no justifiable reason on the part of the competent authority to turn back and say that the petitioner being blind will not be suitable for the post of Enquiry-cum-Reservation Clerk. We do not want to enter into a roaving enquiry regarding the truth or otherwise of statement made by the petitioner that he had appeared before the Medical Board which is sought to be denied by the opposite parties. We would direct the petitioner to appear before the Medical Board on the date to be fixed by the competent authority and intimation of such date should be given to the petitioner by Registered Post with A.D. in the address furnished in this application i.e. Plot No. 35, Behind Ram Mandir, Kharbela Nagar, Bhubaneswar. We hope and trust at least one month of time should be given to the petitioner

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from the date of issue of the order till the date of interview by the Medical Board, so that there would be sufficient time for the postal authorities to deliver the letter to the petitioner. Since the petitioner is admittedly blind, we feel that he can discharge the duties of an Enquiry Clerk, because as we are told that reservation clerk functions differently from an enquiry clerk. If this is not possible then as maintained by the opposite parties in their counter that blind candidates are recruited against their prescribed quota for Group-C and D posts by the railway itself; one such post should be given to the petitioner and in case ~~if~~ there is no vacancy at the present moment, the petitioner should be allowed to join as Enquiry Clerk and whenever in future a post for the quota allotted to the blind people is available, such post should be given to the petitioner. Thus the application is accordingly disposed of leaving the parties to bear their own cost.

5. This order should be complied with within 90 days from the date of receipt of a copy of this judgment viz. within this period of 90 days, the petitioner should appear before the Medical Board and should be allowed to join the post as indicated above.

*Arif Ali*  
MEMBER (ADMINISTRATIVE)

*D.B.*  
19-1-93  
VICE-CHAIRMAN

Central Administrative Tribunal  
Cuttack Bench, Cuttack  
dated the 19.1.1993 B.K. Sahoo

