

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. No. 1289 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman  
Hon'ble Mr. M.S. Mukherjee, Administrative Member

Ashim Kumar Paul, s/o Dev Prosad Paul,  
residing at C/o. Dilip Kumar Paul,  
Milanpally (Mallick Bagan Lane), P.O.  
Hridoypur, Dist. 24-Parganas (North)

..... Applicant

-vs-

1. Union of India, service through the General Manager, Eastern Railway, 17, N.S. Road, Fairlie Place, Calcutta-1 ;
2. Chief Personnel Officer, Eastern Railway, 17, N.S. Rd., Fairlie Place, Calcutta-1 ;
3. Sr. Personnel Officer (PC), Eastern Railway, 17, N.S. Road, Fairlie Place, Calcutta-1 ;
4. Joint Director, RES-II/Estt., Railway Board, Ministry of Railway, Govt. of India, Rail Bhawan, New Delhi.

..... Respondents

Counsel for the applicant : Mr. B.C. Sinha  
Mr. P.C. Das

Counsel for the respondents : Mr. C. Samaddar

Heard on : 1.4.1997 - Order on : 16.4.1997

O R D E R

A.K.Chatterjee, VC

Stripped of unnecessary details, the admitted and relevant facts are that the Railway Recruitment Board on the basis of a written and viva-voce test had recommended the petitioner for appointment as Trains Clerk in non-technical popular category post, but he was found medically unfit for such post. The petitioner was sent for medical test again for alternative appointment

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and he was declared fit under category B/1 and below in April, 1991. However, as no alternative appointment was given to him, inspite of several representations, he has made the instant application, *inter alia*, for a direction upon the respondents to appoint him immediately in alternative post like Ticket Collector, Commercial Clerk etc.

2. The respondents in their counter contend that in terms of Railway Board directive in the letter dt. 7.11.85, if a SC candidate like the petitioner is declared medically unfit for the empanelled post, he may be offered alternative appointment in other categories, if there is any shortfall of candidates belonging to this community, provided they are medically fit for alternative appointment for which approval of the General Manager is required. It was said that the representation of the petitioner was put up before the competent authority for his alternative appointment but it could not be favourably considered as against the requirement of NTC <sup>posts</sup> candidates, the railway had received panels from the Railway Recruitment Board containing 1247 candidates waiting for absorption against NTC posts with each panel having appropriate quota of SC/ST communities.

3. We have heard the <sup>1</sup> d. Counsel for both the parties and perused the records before us.

4. Even though in the petition itself it has been unmistakably stated that the petitioner was found medically unfit for the post of Trains Clerk, still his <sup>1</sup> d. Counsel joined issue when it was submitted on behalf of the respondents that for such posts, candidates are to be found fit in category A/3. Relevant rules of Indian Railways Establishment Manual - 2nd Edition was brought to our notice, which indeed indicated that fitness in category A/3 was required for appointment of Trains Clerk. Therefore,

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there is no doubt that the petitioner was rightly found medically unfit for the post of Trains Clerk.

5. Now after the petitioner was found unfit in category A/3, he was examined again for alternative appointment and found fit in category B/1. <sup>and below</sup> The Ld. Counsel for the respondents has, however, argued that once the petitioner was found medically unfit for the post for which he was recommended by the Railway Recruitment Board, there was no scope to offer any alternative appointment to him or to medically test him again for such appointment. He has further argued that it is only when <sup>a</sup> serving employee is medically decategorised, that question arises to offer alternative appointment to him and for that purpose to test his medical fitness in a lower category. Now the letter of the Railway Board dated July, 1985 no doubt provides for alternative appointment in case of SC/ST candidates if they <sup>are</sup> declared medically unfit for the post for which they were empanelled. Nothing has been brought to our notice to show that the application of this letter of the Railway Board is restricted only to the case of serving employees, who are medically decategorised. If really this was the position, then it is hardly intelligible why the petitioner, who was certainly not a serving employee, was again medically tested after he was found unfit in category A/3 for the post of Trains Clerk. Such medical examination for the second time to test the fitness of the petitioner in lower category can be explained only if any offer of alternative appointment to some other post was under contemplation. As a matter of fact, the representation of the petitioner for alternative appointment was put up before the competent authority and it has been stated in the counter that his request could not be considered as there was already a long panel of 1247 candidates waiting

for absorption in NTPC post. In view of such a huge panel, we are quite satisfied that it is not possible for the respondents to immediately provide any alternative appointment to the petitioner in any post for which he was found medically fit. But what is unintelligible is why his name could not be placed in the same panel without any priority so that he may have his turn for appointment if it ever comes.

6. For the reasons stated above, we ~~propose to~~ dispose of this application with a direction upon the respondents to empanel the name of the petitioner for appointment to a suitable post in NTPC ~~category~~ and he may be considered for appointment in due course subject to his fitness and other relevant rules in this regard.

7. No order is made as to costs.

Mukherjee  
16/4/97  
( M.S. Mukherjee )  
Member(A)

A. Chatterjee  
16-4-97  
( A.K. Chatterjee )  
Vice-Chairman