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CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH: JODHPUR

ORIGINAL APPLICATION NO. 22/2007

Date of order: 09.08.2011

CORAM:

HON'BLE DR. K.B.SURESH, JUDICIAL MEMBER  
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER

Khem Karan Rotwal S/o Shri Nand Kishore Ji aged about 32 years, R/o House No. 91/43, Sidharth Nagar, Dhola Bhata Road, Ajmer (Raj) lastly employed on the post of E.S.M./Helper under J.E. (Signal), Nokha, North Western Railway.

....Applicant

**VERSUS**

- 1- Union of India through the General Manager, North West Railway, Jaipur.
- 2- Divisional Railway Manager, North West Railway, Jodhpur Division, Jodhpur.
- 3- Assistant Personnel Officer, North-West Railway, Jodhpur Division, Jodhpur.
- 4- Senior D.M.O., North West Railway, Jodhpur Division, Jodhpur.

... Respondents.

Present :

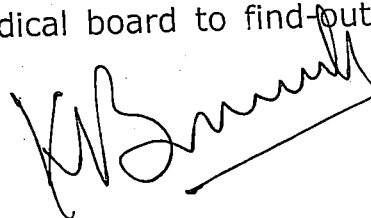
Mr.J.K.Mishra, Advocate, for applicant.  
Mr. Manoj Bhandari, Advocate, for respondents.

ORDER (Oral)

(Per Dr. K.B. Suresh, Judicial Member)

Heard both counsels.

2. The pangs hunger are same and similar to ~~be~~ all human beings. The lament of the applicant is that he had been selected on the post of Fresh Face Substitute in Group 'D' category in a normal selective process wherein he was medically examined and once found fit in A-2 medical category. It would appear that thereafter some disability in hearing was detected and he was examined once again and found to be unfit, and after 24 days of service, removed from service. He is challenging his removal.
3. In the course of the proceedings, we had directed him to be examined by a medical board to find out the sufficiency or



adequacy of his ability, to prove to be of some worth to the Railway for the salary which may come to his way following the selection already under-gone. In compliance with it, the Railways constituted a medical board of five eminent Doctors and they found him to be unfit in A-1, A-2, A-3, B-1, B-2, C-1 and 'C-2' ru categories. They informed that he can be made fit only in a handicapped category, wherein hearing is not required. At this point of time, the learned counsel for the applicant would submit that the applicant is ready to work even as a Safaiwala, and after having gone through the pleadings of both the counsels, ru we feel that once he had been selected and posted on a post, he has got a vested right even under medical decategorisation, and now, through accepted and well tested methodology only he can be removed, and in this the focus of Section 47 of Disabilities ru Act comes to his rescue. But, we note that this matter is subjected to and is subjudice before the Hon'ble Apex Court in Special Leave Petitions No. 2592-2594 of 2009, and as persons ru parimateria with him are continued in employment based on the interim order passed by the Hon'ble Apex Court. Therefore, while declaring that he also will be subject to the final out-come of the said SLPs, we hold that a post not involving requirement of hearing ability, which is required for other functional posts, and sensitive especially in view of the certificate issued by the Rajasthan State for impairment only of 40% ru disability, appropriate attention may be given to him based on the focus of the Disabilities Act. He may be considered for a post of Safaiwala or similar post which may not require the extant ru of

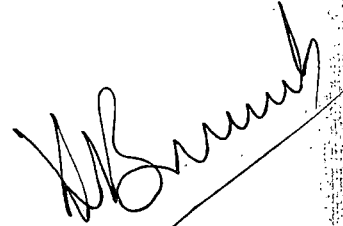
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hearing which the other functional posts would require. This may be done within a period of two months next.

4. With the above direction, this O.A. is allowed with no order as to costs.



(Sudhir Kumar)  
Administrative Member



(Dr.K.B.Suresh)  
Judicial Member

Jrm