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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 9/2007
JODHPUR: THIS THE 7TH DAY OF SEPTEMBER, 2007.**

**CORAM :
HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER**

Parsu Ram S/o Late Sh. Kanhaiya Lal Vyas, aged about 51 years R/o Outside Goga Gate, Behind Lal Gufa, Bikaner (Raj). At present working as C.N.T.C., S.S. Railway Station, N.W. Railway, Bikaner.

.....Applicant.

Mr. S.S. Khatri, Adv. for applicant.

Versus

1. Union of India through General Manager, North West Railway, Rajasthan, Jaipur.
2. Divisional Railway Manager, North West Railway, Bikaner Division, Bikaner.
3. Divisional Personnel Officer, North West Railway, Bikaner Division, Bikaner.
4. Chief Medical Director, North-West Railway, Medical Department, Head Office, Jaipur.

.....Respondents.

Mr. Vinay Jain and Mr. Vineet Mathur, Advocates, for respondents.

**ORDER
[BY THE COURT]**

Shri Parsu Ram, has filed this Application under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs :-

(A) By an appropriate order or direction, the respondents may kindly be directed to release the salary to the applicant from August, 2005 to till date and also be directed to release the due medical reimbursement claim and admissible TA/DA.

(B) By an appropriate order or direction, the respondents may kindly be directed to provide adequate medical facilities and financial help and treatment of the disease to the applicant and also be directed to conduct the angiography of the applicant.



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- 2 -

(c) By an appropriate order or direction, the respondents may kindly be directed to disclose the fact regarding the fitness of the applicant as per the opinion of the medical board and if he has been declared fit then he may be taken back on duty and if the report of medical board is against him then he may be retired on medical ground with all consequential benefits.

(d) Any other appropriate relief which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.

2. The respondents filed a detailed reply and the matter was heard at length on 30th August, 2007. The factual matrix of the case is as follows :

Shri Parsu Ram, is a patient of Diabetics / Hypertension. The respondents vide letter dated 8.6.2005 (Annex. A/1), directed the applicant to present himself before the Senior Divisional Medical Officer, North Western Railway Hospital, Lalgah, Bikaner, for his medical examination. From there, applicant was referred to the Medical Board at Railway Hospital, Ajmer and the Medical Board examined the applicant on 11.11.2005. The Medical Board's report is kept at Annex.

A-11/R-1. He was examined by three Doctors at Ajmer. Para 14 of the Medical Board's report is reproduced below :-



"14. Summary of present illness : Patient is a case of Diabetes mellitus Type-I since 1979. He had complaints of increased thirst, increased appetite and polyurea. He is taking treatment from Railway Hospital, BKN and Medical College, BKN. He is on injection Insulin since beginning. He has occasional history of DKA and occasional unconsciousness. Patient has H/o Hypertension from 1997. He had diminision of vision in 2001. He had cystoid macular oedima and laser photo coagulation was done in both eyes.

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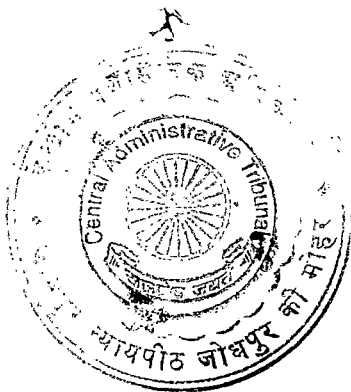
Now patient has H/O Hesitancy of micturation and numbness allover body. H/O anorexia and other vague complaints.

Note : Patient is very adamant. There is no proper diet control. He is taking injection insulin at his own timings, at lunch & dinner instead of at Breakfast and Dinner. He is increasing dosages of insulin (Human mixtard) of his own. There is History suggestive of Hypoglycemia. BSF on 9.11.05 was 52 mg% only and PP was 266mg%."

3. On 16.2.2006, Shri B.K. Kayamkhani, Advocate, Rajasthan High Court, Jodhpur, served a legal notice to the respondents which was followed by number of cross correspondence between the applicant, his advocate and the medical officers of Lalgarh, Bikaner.

4. The applicant in his O.A. has prayed for disclosing the fact regarding the fitness and if he is being declared fit then he may be taken back on duty else, he may be retired on medical grounds with all consequential benefits.

5. The matter was heard on 15.1.2007 and the last para of the Tribunal's order is reproduced below :-



"We have considered the submissions and pleadings put forth on behalf of the applicant. From the records, it is borne out that the applicant was advised that he is suffering from Diabetes and he should take treatment for the same and after getting cured, the fitness certificate would be issued by the competent authority. But this position is not acceptable to him and the stress has been that the applicant is bed-ridden. We also find that no certificate of any doctor whatsoever has been placed on records and the present status regarding the health of the applicant is not clear. To do the proper justice in the matter we direct the 2nd respondent to get the medical

Sub

examination of the applicant done up by the Chief Medical Superintendent, Lalgah at Bikaner and the necessary findings regarding the health condition of the applicant be reported to this Bench of the Tribunal as early as possible. Let a copy of this order be annexed along with the notices of the 2nd respondent."

6. The learned counsel for the respondents mentioned that the applicant is not cooperating as could be seen from various documents on record. Further, the applicant is working on a safety category post and till he clears the PME he cannot be taken back on duty. There is an allegation of mis-behavior with the Railway Doctors as brought out in the reply of the respondents dated 13.8.2007. During the arguments, the learned counsel for the applicant mentioned that the applicant is being victimised and that the applicant is suffering from couple of diseases. He has shown the Tribunal few medical papers which are now taken on record. He also invited my attention to Para 828 of the Indian Railway Medical Attendance Rules, which is reproduced below :

"828. Scope of treatment of employees, their families and dependent relatives :

(i) A Railway employee, a member of his family or dependent relatives shall receive, free of cost, treatment for diabetes at Railway hospitals, health units, to the extent facilities of such treatment exist. The medicines and drugs necessary for this purpose will be stocked and supplied from Railway hospitals / health units as long as required to control the disease and/or the authorized medical officer considers necessary.

(2) Medicines, drugs and injections are normally issued only on the authorisation of the authorized medical officer, but since diabetes is a disease which requires prolonged treatment, suitable procedure may be evolved by Railway administrations for supply of these medicines, drugs and injections to such cases, so that inconvenience to patients caused by frequent visits is avoided.



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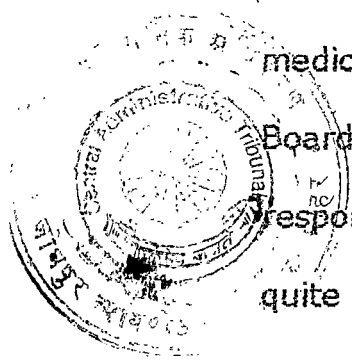
(3) Where the treatment of diabetes includes administration of medicines and drugs through injections, this should not be taken as authorising the routine attendance of the authorised medical officer at the residence of the patient for the purpose.

(4) For injections prescribed in connection with treatment of diabetes, vials and disposable insulin syringes will be supplied by the Railways.

(5) As such medicines and drugs are supplied by the Railway hospitals and health units, the claims for reimbursement of expenses on this account are not to be entertained."

The learned counsel for the applicant further mentioned that the medicines are not being supplied in full quantity as per requirement by the respondents.

7. The learned counsel for the respondents in his arguments brought out that applicant is not on the job since August, 2005 and, therefore, no salary is due and the claim mentioned in the relief is thus not correct. All possible medical facilities are being provided but, he is not obeying the instructions of the Doctors and is adamant. The post of Chief Trains Clerk falls in Safety Category as per the Medical Manual and he has to go through periodical medical examination (PME) after every two years. He was sent for periodic medical examination on 12.7.2005, but, he did not follow it up and asked for constituting a medical board, then only, he was referred for examination by a Medical Board at Ajmer. This has been clarified in the detailed reply filed by the respondents. The rules and regulations about medical examination are quite clear and unless applicant is found fit at the time of periodic



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Medical Examination (PME), he cannot be allowed to join his duties. As far as the payments claimed in the O.A. are concerned, the learned advocate for respondents brought out that nothing is due to him.

8. After addressing the Tribunal by Mr. Jain, the respondent's counsel, the Senior Central Government Standing Counsel Mr. Vineet Mathur relying on the same arguments also raised an objection regarding maintainability of this Application as number of reliefs have been sought by the applicant and under Rule 10 of the C.A.T. (Procedure), Rules, plural remedies cannot be clubbed in one O.A. He also pointed out that the reliefs are conditional, hence, O.A. is not maintainable. Mr. Mathur also argued that in the O.A., there is no impugned order, therefore, the O.A. itself deserves to be dismissed on these grounds.

9. Mr. Mathur, learned counsel for respondents further submitted that the conduct of the applicant is highly unsatisfactory, he is adamant and this has been brought out in various documents. Even for some test facilities which were not available in the Railway hospital, respondents while helping him tried to do such tests in other hospitals but the applicant is adamant.

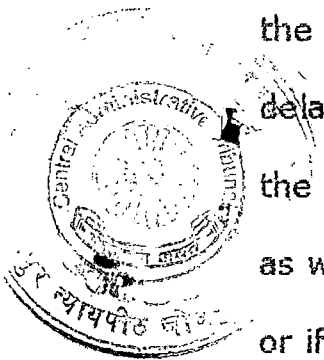
After going through the various documents and arguments raised by the learned counsels for the parties, it is clear that the applicant is not performing any duties from July 2005 onwards. He



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was medically examined by the Medical Board in November 2005 and almost two years have elapsed since the last Medical Board. It is an admitted position of the parties that applicant is suffering from multiple diseases like diabetics, hypertension etc. Records point out that the applicant did not cooperate and is adamant to take proper treatment and is insisting otherwise. It could be possible for various reasons - decease induced, family induced etc. Such behaviour amongst patients suffering from long time is not uncommon. The remedy lies in counselling the patient, proper treatment and helping him to be in a reasonable fit state to perform duties. Since resuming duties on a safety category post is not possible unless one clears PME, the first necessity for bringing normalcy is subjecting the applicant for PME.

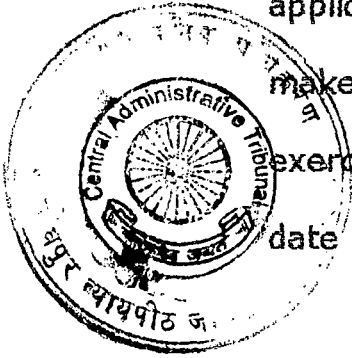
11. The O.A. is partly allowed. The Respondents are directed to send the applicant for Periodical Medical Examination as expeditiously as possible without any further delay, and the applicant, should cooperative in taking medical treatment and advise as would be given by the concerned Doctors. After the outcome of such examination, if the applicant is found fit, he should be taken back on duty without delay. If the applicant is not found fit to join his duties as per the PME, the respondents may decide the next ^{line} ~~time~~ of action viz., his treatment as well as possibility of offering him alternate non-safety category jobs or if found unfit for all categories then retirement on medical grounds. The respondents are also directed to decide about the period of



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- 8 -

absence of the applicant right from August 2005, whether it could be covered under leave (including medical leave), at the credit of the applicant / leave not due. Respondents may decide the same and make the payments accordingly without any further delay. This exercise should be completed within a period of eight weeks from the date of receipt of a copy of this order.



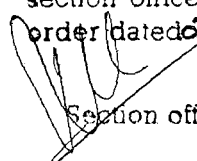
11. No order as to costs.

R.R. Bhandari
(R.R. Bhandari) M [A]

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By Record
J. J. Smith
10.09.07

Part II and III destroyed
in my presence on 04-6-14
under the supervision of
section officer () as per
order dated 26-2-14


Section officer (Record)