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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.**

Original Application no. 18/2009

Date of decision: 25.03.2009

Hon'ble Mr. Justice M. Ramachandran Vice Chairman.

Hon'ble Dr. Ramesh Chandra Panda, Administrative Member.

Bhupendra Singh Randhawa, S/o Shri Sujan Singh Randhawa, aged 48 resident of 2/F-2 Surendra Cottage, Jawahar Nagar, Sriganganagar, Official Address: Dy CIT/ Hanumangarh North Western Railways, Hanumangarh Division, Bikaner.

: applicant.

Rep. By Mr. Mr. Sanjay Kapoor : Counsel for a the applicant.

Versus

1. Union of India, through the General Manager, North Western Railways, Headquarters Office, Jaipur.
2. Divisional Railways Manager, North Western Railway Bikaner.
3. Senior Divisional Personnel Officer, North Western Railway Bikaner.
4. Brij Lal CIT/TTE North Western Railway, Hanumangarh.

Resopondents.

Mr. Manoj Bhandari : Counsel for the respondents.1 to 3

None present for respondent No. 4

ORDER

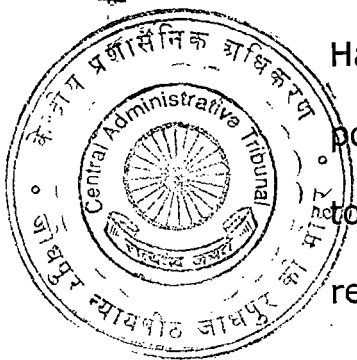
Per Mr. Justice M. Ramachandran V.C. (J)

By an order 17.01.2009, the applicant had been directed to undergo training at Udaipur, which was necessitated after his medical decategorisation for the post of Goods Guard and for the purpose of absorbing him as ECRC. The above order is under challenge. In the course the applicant has also challenged Annex.



A/2 and Annex. A/3 which were consequent to the report of the Medical Committee, Bikaner which had declared as unfit for guard and fit for medical category Aye two and below, fit for only alternative job of less arduous nature. The medical committee declared that he is fit for the job not involving active movements of left shoulder. His case had to be reviewed after one year. Evidently this shows that the applicant had to undergo training as otherwise it would not have been possible for him to retain job. It is not in dispute that consequent to Annex. A/1, the applicant had been relieved from the post which he was holding on a temporary, stop gap measure.

2. It is not in dispute that while working as Goods Guard, the applicant met with an accident while on duty and therefore he was medically decategorised. Vide order dated 18.01.2006, he was declared medically unfit as Guard and his fitness was to be reviewed after a period of one year. But the question is whether the irreversible process could nevertheless be changed because of a request made by the applicant. He was appointed as Dy CIT at Hanumangarh on supernumerary post of Guard. Though he was posted as above practically he was utilized as Dy. CIT. According to him since he had earlier worked as Ticket Collector he did not require any training for the post of Dy CIT and therefore he may be permitted to continue in the above said post of Dy.CIT at Hanumangarh without training. In other words, the applicant submits that since he is performing his duty perfectly an order for



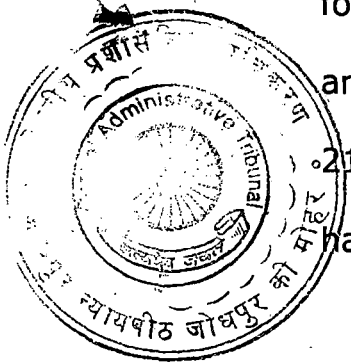
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sending him training was not valid. He further states that he was found fit for discharging the duties as CIT and there was no reason for sending him for any training.

3. In the reply statement, the respondents had indicated the sequence of events. The applicant was directed to appear before the absorption committee on two occasions i.e. on 23.05.2007 and 12.06.2007 but he did not appear before the committee and he was dodging. In the meanwhile against the supernumerary post of guard he was being engaged as CIT and there was no CIT post available at Hanumangarh to accommodate him. Supernumerary posts cannot be allowed to continue for long and therefore the applicant had to be absorbed regularly and despite calling him twice he was evading appearance before the absorption committee.

4. Finally he appeared on 03.01.2008 and he was to be accommodated on an alternative post of ECRC and such post was found suitable for him taking note of his disability. He was booked for training at ZRTI, Udaipur but he did not proceed for the training and again he was asked to go on training at Udaipur w.e.f. 21.01.2009 to 03.03.2009 but he did not report there but still was hanging on after being relieved from the post.

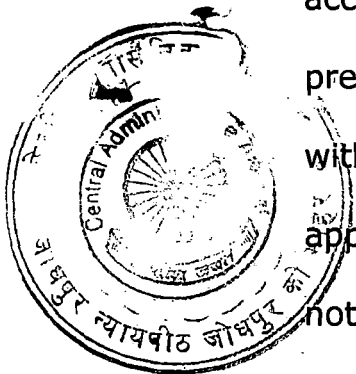
5. It is submitted that the circumstances would have been justified the administration in initiating action against him. The counsel for the respondents also submits that the request for



posting the applicant as Dy CIT Hanumangarh could not be acceded to since as a medically decategorised staff suitable post offered on recommendations of the Absorption Committee. The applicant had to undergo the training since he has ultimately to be absorbed as ERS.

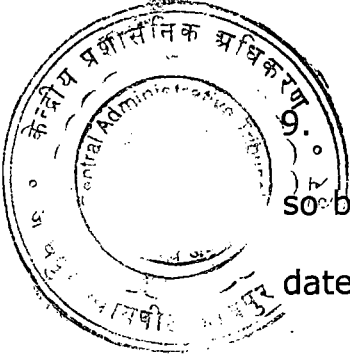
6. After hearing the learned counsel and taking note of the rival contentions we feel we are not to interfere with the impugned order. But so as to safeguard the interest of the applicant and at the same time to ensure that the orders issued by the administration has to properly implemented it may be necessary to make directions.

7. The next dates for training for ECRC is yet to be finalized. Counsel for the respondents submitted that if in the meanwhile the applicant requests to post him as Dy.CIT in a supernumerary post on which he was engaged continuously, he will be temporarily accommodated, but this could be done only if the applicant is prepared to undergo training for the post of ECRC when deputed, without demur. We also notice that there is no challenge by the applicant against the medical decategorisation. The applicant will not be entitled to choose his own course and the rules governing the employees requires to be abided by him.



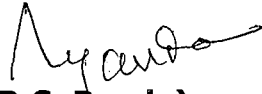
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8. The counsel for applicant, after consulting with the applicant, who was present in the court submit that he is prepared to follow the course as above suggested.



It is recorded if the applicant wants to join duty he should do so by 28.03.2009, The period of absence from 17.01.2009 till the date of joining duty is to be treated as leave eligible.

10. The O.A is disposed of as above. No costs.


(Dr. R.C. Panda)
Administrative Member.
jsv


(Justice M. Ramachandran)
Vice Chairman (J)

Copy Recd
30/03/03
per Mr Rhondaing

Recd Com
Sajjanbhai
Adm
30/03/09

Part II and III destroyed
in my presence on 8/8/11
under the supervision of
section officer () as per
order dated 07/07/2015
Section officer (Record)