

1/19

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No.492/2012
With MA No.100/2013

Jodhpur, this the 24th day of September, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

Prem Prakash Regar s/o Cheetar Lal, aged about 43 years r/o H.No.11,
Gali No.1, Shakti Colony, Ratnada, District Jodhpur, Rajasthan.

.....Applicant

Mr. R.S.Shekhawat, counsel for applicant

Vs.

1. Union of India through its Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. General Manager, North Railway, Baroda House, New Delhi.
3. Divisional Railway Manager, Northern Railway, New Delhi.
4. Divisional Personnel Officer, Northern Railway, New Delhi.
5. Director General/RHS, Railway Board, Rail Bhawan, New Delhi.
6. Chief Medical Superintendent, North Railway Hospital, Delhi.

...Respondents

Mr. Kamal Dave, counsel for respondents

ORDER (ORAL)

Per Justice K.C.Joshi, Member (J)

By way of filing the present OA, the applicant has challenged the action of the respondent department whereby he has been declared medically unfit for appointment on the post of Diesel/Electrical Assistant and claimed the following reliefs:-

2

- a. By an appropriate order or direction, the certificate dated 31.8.2006 (Annex.A/3), communication dated 3.10.2006 (Annex.A/4) and any order/communication/letter declaring applicant unfit or denying appointment on the post of Diesel/Electrical Assistant as advertised at Serial no.48 in the advertisement dated 26.6.2004 (Annex.A/1) may kindly be quashed and set aside.
- b. By an appropriate order or direction, the respondents may kindly be directed to give appointment to the applicant on the post of Diesel/Electrical Assistant as advertised at Serial no.48 in the advertisement dated 26.6.2004 (Annex.A/1) from the date when similarly situated persons were given appointment with all consequential benefits.
- c. By an appropriate order or direction, the respondents may kindly be directed to declare the applicant medically fit and to not to deny appointment on the ground of medical unfitness.
- d. By an appropriate order or direction, the respondents may kindly be directed to the respondents may kindly be directed to decide the appeal of the applicant within a period of one month.
- e. Any other appropriate relief which this Hon'ble Tribunal may deem just and proper in the facts and circumstances may kindly be passed in favour of the applicant.
- f. Application of the applicant may kindly be allowed with costs.

2. Facts as averred by the applicant in brief are that pursuant to an advertisement dated 26.6.2004, the applicant applied for the post of Diesel/Electrical Assistant. The applicant was selected and was issued offer of appointment and training for the post of Apprentice DSL/Elect. Assistant Grade. Rs. 3050-4590. He was also directed for medical verification and he appeared before the medical board on 31.8.2006 where he was declared medically unfit in A-I category and was accordingly, informed vide communication dated 3.10.2006. Thereafter, the applicant preferred appeal on 1.11.2006. He was further examined and was also directed to appear before the AIIMS and Lady Hardinge Medical College for medical examination and after medical examination,

1/2

he was found normal. The Chief Medical Superintendent, North Railway, Delhi made a communication dated 26.3.2007 to the Medical Director, North Railway, Central Hospital, New Delhi whereby he informed him about the status of the applicant's appeal and also gave information with regard to his medical opinion received from various authorities and they found the applicant fit to be appointed. Pursuant to communication dated 1.5.2007 a medical board was constituted and the applicant appeared before the medical board on 18.9.2007. The applicant stated that respondent authorities kept the case/appeal of the applicant pending for so many years though the applicant has been declared medically fit by consecutive four medical boards and, therefore, being aggrieved of the inaction on the part of the respondents, the applicant has filed this OA praying for the reliefs as mentioned in Par-1 above.

3. The respondent department in its reply has averred that the applicant after being selected was sent for medical fitness. The post of Diesel/Electrical Assistant falls under the highest safety category of railway train running service for which high medical standards are required as per safety category posts. As per para 523-12.13 sub clause 2 of Indian Railway Medical Manual, 2000, the applicant was not medically fit for the post for which he was selected and the respondents cannot compromise with the medical standards required for such highest safety category post. The applicant was declared medically unfit due to his ear ailment i.e. *Perforation* and the same was communicated to the applicant vide letter dated 3.10.2006. It is further submitted that fitness for appointment against ordinary post and fitness for a post categorized as highest safety category post are different as highest safety category post need higher standard of medical fitness, and as such, general terms of

2

X/15

fitness for the post cannot be applied and the person appointed against highest safety category post can only be appointed after having found fit as per the medical standard required for the post.

4. We have heard the counsel for both the parties. Counsel for the applicant contended that the applicant submitted medical certificate of Government doctors certifying the applicant as fit for the post but the Medical Board of the railway doctors declared the applicant unfit for appointment to the post of Diesel/Electrical Assistant. Counsel for the applicant further contended that the respondents may be directed to get him re-examined by any other Govt. doctor and to give him appointment. Counsel for the applicant also contended that the applicant is entitled to get appointment on the basis of the Govt. doctor's certificate submitted by him.

5. Per contra, counsel for the respondents contended that the applicant is entitled to get appointment only on the basis of the medical fitness certificate issued by the duly constituted Medical Board and as per the guidelines of the Ministry of Railways. As the Medical Board constituted by the railway authorities did not find the applicant medically fit, therefore, the applicant is not entitled to get appointment to the post of Diesel/Electrical Assistant.

6. We have considered rival contention of both the parties and also perused the documents available on record.

7. It is settled position that fitness for appointment against ordinary post and fitness for a post in highest safety category are different and a

2

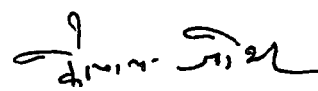
1/6

safety category post needs higher standard of medical fitness and, as such, the general terms of fitness cannot be applied to appointment to the posts falling in safety category. Against safety category posts, a person can only be appointed after going through the medical examination on the basis of the medical standards required for the post and found fit. It is admitted fact that required standards of medical fitness were not fulfilled by the applicant as per the specific opinion of the experts and so far as certificate issued by Prof. G.N.Purohit. MDM Hospital, Dr.SN Medical College, Jodhpur is concerned, on the basis of this document, the applicant is not entitled to get any appointment. Further, the fact of medical ailment was admitted by the applicant himself and he was found unfit having ear ailment even at the time of first medical examination. The provisions of Indian Railway Medical Manual, 2000 under its para No.523-12.13.2 provide that disease of ear like *Perforation* will cause rejection of the case of a candidate. Therefore, the applicant was not found fit for A-I medical category and was rightly denied appointment.

8. After thoughtful consideration of the relevant facts, we are of the considered view that the applicant is not entitled to get any relief and the OA is liable to be dismissed. Accordingly, it is dismissed being devoid of merit with no order as to costs.

9. In view of the order passed in OA, MA No.100/2013 for deletion of respondent No.1 has become infructuous and the same is accordingly dismissed.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

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