

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

M.A. 550 of 2000
O.A. 530 of 1997

Present : Hon'ble Mr. Justice R.N. Ray, Vice-Chairman
Hon'ble Mr. B.P. Singh, Administrative Member

Sri Laltu Barman, s/o Late Surendra
Chandra Barman, resident of 220/E,
Harshi Street, Railway Guard Colony,
Calcutta-700 009, Guard- 'C' (Goods),
Sealdah, CYM, Chitpur, Eastern Railway

..... Applicant

-VS-

1. Union of India, represented by
General Manager, Eastern Railway,
Calcutta (Notice to be served upon
G.M., Eastern Railway), 17, Netaji
Subhas Road, Fairley Place, Cal-1 ;
2. Chief Personnel Officer, Eastern
Railway, Fairley Place, 17, Netaji
Subhas Road, Calcutta-1 ;
3. Senior Divisional Personnel Offi-
cer, Eastern Railway, Calcutta-14 ;
4. Divisional Medical Officer,
Opthalmology, Eastern Railway, Sealdah,
Calcutta-14 ;
5. Chief Yard Master, Eastern Railway,
Chitpur.

..... Respondents

For applicant : Mr. B. Mukherjee, counsel

For respondents : Mr. P.K. Arora, counsel

Heard on 21.11.2000

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Heard on : 27-11-2000

ORDER

R.N. Ray, VC

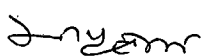
This OA has been filed by the applicant directing the respondents - Railway Administration, particularly, the respondent No.3 i.e. Sr.D.P.O., Sealdah and the respondent No.4, i.e. Divisional Medical Officer(DMO), Eastern Railway to refer the

matter in dispute to the duly constituted Medical Board for vision test of the applicant and to pass appropriate order.

2. It is the case of the applicant that the applicant is a Commercial Clerk, substantially appointed to the said post under the recruitment rules through the then Railway Service Commission with effect from 25.1.84. The applicant was subsequently selected as per rules as a Guard and declared medically fit by DMO, B.R. Singh Hospital, Eastern Railway, Sealdah in A/2 on 26.3.90 without glass and in the said capacity as a regularly selected Guard in the category-C for running Goods Train. On 11.8.1995, the applicant was sent for periodical vision test to the Divisional Medical Officer, DMO, B.R. Singh Hospital, Eastern Railway, Sealdah and the applicant was declared medically unfit with effect from 11.8.95 and the said unfit memo granted by the Medical Authority from the Hospital was made over to Chief Yard Master (CYM), Eastern Railway, Chitpur and the applicant was spared off ^{from duty} and from 11.8.95. It is also the case of the applicant that the applicant was declared unfit for the purpose of running the Goods Train as a Guard without glass but under rules relating to vision test as contained in Railway Establishment Manual having statutory sanctity, an employee once declared medically unfit in vision-test without glass, is required to ensure that the said employee can be declared fit with glass. The applicant's case is that he has focussed this point to the competent authority but nothing has been done so far resulting in the arbitrary, unfair and unreasonable cessation of work by the Railway Administration and the applicant was not allowed to resume the work of the Guard-Cx causing serious financial constraint. It has been further contended that the applicant has been examined by different Government Medical Hospitals and also some private Eye Specialist and their opinion was that the vision of the applicant is quite right and there is no deficiency.

Thereafter, the applicant represented to the competent authorities for considering his case but without success.

3. This O.A. has been challenged by the respondents contending that as the applicant was medically unfit in the periodical medical examination conducted by the authority to function as a Guard, he was not engaged as such. The respondents have also contended that the applicant might be accommodated in some other alternative post for which he may be found suitable subject to his medical fitness.
4. We have heard both the counsel and perused the records.
5. It will not be useful exercise for us to go in detail but in view of the various reports of the Medical Colleges and Specialists, we see that the applicant should be subjected to vision test again and accordingly we direct the respondents to arrange vision test of the applicant afresh by referring the matter to the Eye Expert under the authority of the respondents and that examination should be conducted within four weeks from this date and if the applicant is found fit to function as a Guard with spectacles and if rule permits to function like that, then the applicant should immediately be given that job within 15 days from the receipt of the report of the medical expert to that effect. Alternatively, if the applicant is not found fit to function as a running staff or Guard, in that event the respondents should provide him an alternative job ~~wxxx~~ as per rules within the aforementioned date as directed above protecting his pay as per rules.
6. In view of the above, both MA and OA are disposed of accordingly. No order is made as to costs.


(B.P. Singh) 27/12/00
Member(A)


(R.N. Ray)
Vice-Chairman