

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA NO. 448/2005

THURSDAY THIS THE 26th DAY OF APRIL, 2007.

C O R A M

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE DR.K.B.S. RAJAN, JUDICIAL MEMBER**

N. Manoharan S/oK. Narayanan,
JE-II(OHE/TRD) Junior Engineer
Overhead Equipments, Traction
Distribution Southern Railway,
Shornur Railway Station and Post Office
residing at NO. 326-B, Ganesagiri Shornur.

..Applicant

By Advocate M/s T.C. Govinda swamy, D. Heeera,
P.N. Pakajakshan Pillai and Sumy P.Baby

Vs.

- 1 Union of India rep. by the Secretary
to the Government of India
Ministry of Railways, Rail Bhavan
New Delhi.
- 2 The General Manager
Southern Railway, Headquarters Office
Park Town PO
Chennai-3
- 3 The Chief Personnel Officer
Southern Railway Headquarters Office
Park Town, PO
Chennai-3
- 4 The Senior Personnel Officer
Electrical, Southern Railway
Headquarters Office
Chennai-3

5 The Divisional Personnel Officer
Southern Railway, Palakkad division
Palakkad. Respondents

By Advocate Ms P.K. Nandini

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The facts of the case have been stated thus:- The applicant joined the Railways as a Junior Engineer Gr I on 19.12.1986. Medical Classification required for the post was only 'Be-one'. He was promoted as Junior Engineer Gr I in the year 1995, with the same medical classification. At that time he was in Central Railways, but with effect from 5.4.2004, he was transferred to Southern Railway in the initial recruitment grade of Junior Engineer Gr. II on loss of seniority. While considering the applicant for promotion as Junior Engineer Gr.I by Annexure A1 order he was not considered on the ground that he is unfit in Aye-three' medical classification. "Aye-three" medical classification is not required for promotion to Junior Engineer Gr. I or even to the still higher post of Section Engineer in the same cadre. Nobody presently working in these grades ^{is} ~~are~~ in 'Aye-three' medical classification and they are all still in "Bee-one" medical classification only. Denial of promotion to the applicant therefore is against Annexure A-2 and A-4 statutory rules which prescribe only medical classification of 'Bee-one' for Junior Engineers and Senior Engineers of the Traction Distribution Unit. The respondents going by Annexure A-5 propose to decentralize the

cadre and option for being inducted into the Trivandrum divisional cadre of those who are working in Junior Engineer Gr. I has been called for. The applicant is denied that option as he has not been promoted. His representation against the illegal denial of promotion is still pending consideration. Denial of promotion and denial of option has resulted in substantial prejudice and loss contends the applicant.

2 The following reliefs are sought:-

- (i) Call for the records leading to the issue of Annexure A1 and quash para III of the same to the extent it denies *consideration to the applicant for the reason that he is unfit in classification "Aye-three"*
- (ii) Declare that the applicant who is fit in "Bee-one" medical classification is entitled to be *considered for promotion to the post of Junior Engineer Gr I of the Traction Distribution Unit on par with those who are included in Annexure A1 and direct further to grant the applicant the benefit of such promotion with effect from the date of annexure A1 with all consequential benefits including arrears of pay and allowances flowing therefrom.*
- (iii) Call for the records leading to the issue of annexure A5 and quash the same to the extent it denies an *option to the applicant for being transferred to the Trivandrum Divisional cadre of Junior Engineer GRI on par with the other Junior Engineers GrI included in Annexure A5.*
- (iv) Direct the respondents to give the applicant an option of being inducted into the *Trivandrum divisional cadre of Junior Engineer GrI (Traction Distribution unit) on par with those who are included in annexure A5 and direct the respondents to consider the same and to give the applicant consequential benefits as if the option had been given by the applicant in time.*
- (v) Award costs of and incidental to the application.
- (v) Pass such other orders as are deemed fit, just and proper on the facts and circumstances of the case.

3 The respondents have filed a reply statement. They have stated that the applicant joined as an Apprentice Mechanic in the Mumbai Division of Central Railway on selection by the Railway Recruitment Board. He was absorbed as a Chargeman (present

designation –Junior Engineer Grade I- (in short JE II) on completion of training on 29.12.1988. Later he was promoted as JE-I from 15.9.1995. Thereafter he was transferred on request to Palghat division of Southern Railway on reversion as JE-II on 5.4.2004. At the time of his appointment in Central Railway the medical classification was B-I only and the applicant was certified fit at that time under this classification. As per IRMM Vol I 2000 (Annexure A-4) the cadre of Electrical Traction Inspectorial supervisory staff are figuring in A-3 category in which the post of Junior Engineer (TRS) has been included. The category of Supervisors in the electrical Department in Railways can be grouped into three major heads viz; Traction, Train-lighting and Power. Of this Traction staff having to work with high tension wires is the higher safety category. As Lighting and AC coach have been classified under A3 category the term Junior Engineer (TRS) in IRMM Vol.1 was taken as denoting the post of Junior Engineer (Traction Supervisors). Further Railway Board vide Letter No 99/H/7/1/NR dated 30.5.2003 (A2) have advised medical classification of various categories of staff in which under the heading- Electrical Traction Inspectorial/ supervisory staff (item 8) the post of Junior Engineer (TRS) has been included. Further it is submitted that as the A-2 circular was issued based on the recommendations of the Railway Safety Review Committee the term Junior Engineer (TRS) placed under A-3 classification in IRMM and Railway board 's letter dated 30.5.2003 was taken as Junior Engineer (Traction Supervisor). Since the category of Traction

Supervisors consist of Traction Rolling Stock, Traction distribution, EMU Loco shed and EMU Rolling stock unit , it was decided that all the staff under these categories should be subjected to medical examination under the classification of A-3 in order to assess their fitness for the same. Since the applicant was not certified fit under A3 he was not promoted as JE -I. It has been further submitted that the present incumbents to the post of JE/SE are also being sent gradually to assess their fitness under A3 classification. and also that a reference to railway board for a clarification on these aspects has been made and a reply is awaited. The applicant is also being retained in the same scale of pay in view of the provisions of the Persons with Disabilities Act 1995 without reduction of emoluments.

4 In his rejoinder, the applicant has pointed out that he does not belong to the cadre of Junior Engineer (TRS) which means JE (Traction Rolling Stock) and not JE (Traction Supervisor) nor does he belong to the Safety category. Such a cadre is not in existence in Palghat division. He has also averred that the word' Traction supervisors' in place of TRS is an invention on part of the respondents and the there is no such decision taken by any competent authority to adopt a higher medical classification and the authorities in Southern railway alone cannot take such a decision when throughout in the Indian Railway Junior Engineers belonging to Traction distribution are continued to be classified under B1 classification. The applicant belongs to the cadre of JE(TRD) and the

cadre of TRS JE/SE is available only at Erode. AC Loco shed. Annexure R1 therefore has no applicability in his case. The officials of the Traction distribution come under the Electrical Traction Maintenance staff as evident from the entry at S.No 7 shown in Annexure A2 read with serial No 7 of Annexure A-4. He has further alleged that some lower officials have misinterpreted the rules and the respondents are now trying to wriggle out of the situation as is evident from their making a clarificatory reference to the Railway board after filing of the OA.

5 The respondents then filed an additional reply statement denying the claims of the applicant that the term JE (TRS) denotes JE Traction Rolling Stock and that such a cadre is not available in Palghat division. Further they have submitted that the reference to Railway board was made on 29.06.06 and it has now been decided to promote the applicant as JE Gr. I (TRD) subject to the condition that if the Railway board classifies the supervisory staff of Traction Distribution under A3 classification his promotion would be rescinded.

6 We heard Learned counsels Sri TCG Govindaswamy for the applicant and Ms P.K Nandini for the respondents.

7 The Learned counsel for the applicant contended vehemently that the requirement of A-3 medical classification insisted upon by

the respondents is ultra vires the statutory rules in Annexures A-2 & A-4 and violative of the constitutional provisions and that the word Traction Supervisors in place of Traction Rolling stock is an invention on the part of the Palghat division authorities to justify their illegal action and further argued that the contention that under the term 'Traction supervisors' , the supervisory staff of "Traction Rolling Stock" and "Traction Distribution" can be grouped is without substance and merit.

8 The Learned counsel for the respondents strongly refuted the allegations and insinuations of the applicant and contended that the General Manager is competent to take such decisions and in the interest of safety it was decided to adopt the higher classification applicable to other cadres of Train Lighting and AC under Electrical supervisory staff. The counsel relied on Annexure R1 order as the basis for this decision.

9 Shorn of the heated arguments on both sides, the short question here is to determine what is the medical classification prescribed for the post of JE Gr. I to which the applicant has been denied promotion and whether the category of JE (TRS) appearing in the Board's orders in A-2 and A-4 carries within its fold people like the applicant. The respondents rely on Annexure R1 a Railway Board circular dated 29.12.2000 regarding prescription of refresher courses for safety categories. The applicant has produced A-2 and

A-4 orders and also copies of Employment notice dated 18.2.2006 issued by the RRB for the post of JE-II and a letter issued by the Head Quarters office Electrical branch to the Sr DEEs dated 20.3.2006 on Periodic medical examination and safety camp for electrical supervisors. A-2 and A-4 are the statutory orders of the Railway Board prescribing the classification of staff in the Railways for the purpose of medical categorization. The categories are provided under each of the classes /groups mentioned in Annexure A-4 of the IRMM Vol 1. Under medical classification A3 in that order, the category of JE(TRS) figures at Sno 9 under the heading 'Electrical traction Inspectorial supervisory staff'. The posts of JEGrl&GrII figure under S. no 7 under B-3 classification under the heading 'Electrical Traction Maintenance Artisan Staff' in the same order. The said Annexure A-4 has been replaced by the authority of Railway board's Lr no 99/H/7/I/NR dated 30.5.2003 produced as (Annexure A2). The relevant entries here are at Item 8 under the heading -Electrical traction inspectorial supervisory staff Serial no 1 being Junior Engineer (TRS) under medical classification of A3 and it is the same as in Annexure A-4 order and there is no change. For the corresponding entries for B1 classification under the heading 'Electrical Traction Maintenance Staff' under item 7 the entry reads thus;

7 All Electrical maintenance/artisan staff unless specified in other categories.

10 The above provision can only mean that all electrical maintenance staff continue to be categorized under B1 medical classification unless otherwise specified under other categories. In the earlier order various categories like JE, Wireman, Khalasis were separately listed but in the revised order they have been covered under an omnibus category. There is no other change and we do not find any support in these documents for the plea of the respondents that the order dated 30.5.2003 has placed the category of Junior Engineers under a higher medical classification. The posts of Junior Engineer(TRS) were in the higher category even in the earlier A4 orders incorporated in IRMM Vol 1.

11 That brings us to the dispute regarding the expansion of the letters TRS. The respondents contend that the letter 'S' stands for supervisors whereas the applicant states that TRS means "Traction Rolling Stock which is an entirely different cadre having separate identity. The respondents though they dispute the claim have not produced any documentary proof like seniority lists, recruitment rules etc. for the post of JE (TRS). If JEs like the applicant were within the definition of Junior Engineer (TRS) they should have been evaluated under the A-3 medical classification from inception. In fact para II of the promotion order at A1 itself describes the promoted post as JE/Gr.I/TRD unit. That the respondents have only applied this A3 classification to the present promotions is evident from the averments in the OA and the Employment notice and the copy of the

letter filed by the applicant is more specific in this regard and prove that even in March 2006, the respondents considered this category to be falling under B1 classification only.

12 The respondents have stated in para 1 of the letter dated 20.3.2006 referred to above as follows:-

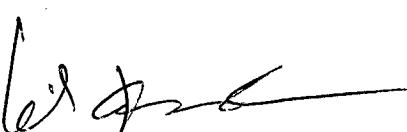
"As per IRMM open line Electrical supervisors connected with Loco/EMU operation/running maintenance and OHE/PSI maintenance fall under A3 category. Other Electrical supervisors i.e sheds, car sheds, TRD supervisors in RC&TPC, supervisors of Trainlighting and Air conditioning fall under B-1 category. Also they have to attend safety camp along with refresher course.'

13 In fact the respondents are in their additional reply shifting to a reliance on the Annexure R1 order dated 19.12.2000 on the subject matter of prescription of duration of refresher courses for safety categories. The argument of the respondents is that the posts of JE (Train Lighting) and JE AC coaches are shown required to undergo refresher courses for safety and they are shown as under A3 medical classification, and so JEs like the applicant are also to be classified as falling under medical classification A-3. This is indeed a strange interpretation and cannot be accepted as it amounts to twisting facts and mis- application of orders relating to one subject in a totally different context. It is settled law that when there are clear statutory instructions on the subject, they have to be read in their plain meaning. Clarification or explanations given by the authorities in a different context cannot be superimposed to give a different meaning.

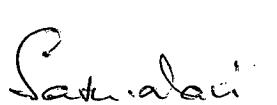
When such interpretations deprive the existing incumbents of their valuable rights for promotion, they are all the more reprehensible and have to be declared as illegal. It is clear from the subsequent reference made by the respondents to the Railway board for a clarification that the respondents are themselves not sure about the correctness of their action.

14 We have been informed that the respondents have decided to promote the applicant pending the receipt of the classification. Let it be done immediately. We order so. In addition they shall also give the applicant an option of being inducted into the Trivandrum divisional cadre of Junior Engineers on par with those who are included in Annexure A-5. We also make it clear that any clarification to be issued by the Railway board has to be in terms of the orders at Annexures A-2 & A-4 and Annexure R-1 cannot be the basis for any decision regarding applicability of medical classification to various categories of Railway employees in the absence of any amendments having been made to the A2 order dated 30.5.2003 which we note has been issued subsequent to the Annex R1 order dated 19.12.2000. OA is allowed accordingly. No costs.

Dated 26th April, 2007


DR. K.B.S. RAJAN
JUDICIAL MEMBER

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SATHI NAIR
VICE CHAIRMAN