

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.591 of 2001.

Friday this the 15th day of March, 2002

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

T.Baburaj, S/o Krishnan,
Ajanur (PO), Anandasram (via),
Kasaragode - 671531.

Applicant

(By Advocate Shri M.V.Thampan)

Vs.

1. Senior Divisional Personnel Officer,
Palakkad Division,
Southern Railway, Palakkad.
2. Medical Superintendent,
Palakkad Division,
Southern Railway,
Palakkad.
3. Divisional Railway Manager,
Southern Railway,
Palakkad.
4. Chief Medical Director,
Medical Branch,
Southern Railway,
Park Town, Madras.

Respondents

(By Advocate Mrs.Sumathi Dandapani)

The application having been heard on 15th March 2002
the Tribunal on the same day delivered the following:

O R D E R


HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

Aggrieved by the impugned order Annexure A9 dated 13.7.2000 of the first respondent withdrawing the offer of appointment on the ground that the applicant has been declared unfit in class Aye one by the Chief Medical Superintendent, Palakkad, the applicant has filed this application

seeking to quash the impugned order, for a declaration that he is entitled to have a remedical examination by the 4th respondent and for a direction to the first respondent to hold a remedical examination of the applicant and to grant him appointment as Diesel Assistant.

2 The undisputed facts are as follows. The applicant was selected for appointment as a Diesel Assistant and was given Annexure A1 offer of appointment subject to certain conditions including that he should be medically fit. However vide order dated 17.12.99(Annexure A2), the first respondent informed the applicant that he was found medically unfit in Aye one category and therefore he was not considered for appointment. However he was advised treatment for visual deficiency. After the treatment at Kasturba Medical College Hospital, Manipal, the applicant applied for a remedical examination to the 1st respondent as advised by the second respondent. He was asked to appear for remedical examination. He complied with that. However the impugned order has been issued stating that the offer of appointment has been cancelled as the Medical Superintendent, Palakkad was on remedical examination declared him unfit under Aye one category.

3. It is alleged in the application that the applicant was initially declared unfit by Dr. Muraleedhar, Ophthalmologist that the remedical examination also was held by the very same doctor Muraleedhar who was prejudicial and that therefore the




cancellation of the offer of appointment without affording the applicant an opportunity to have himself examined by a competent Ophthalmologist on his appeal against the decision of Dr.Muraleedhar is arbitrary, discriminatory and amounts to denial of reasonable opportunity.

4. The respondents have filed a reply statement opposing the prayers.

5. We have heard Sri M.V.Thamban, learned counsel of the applicant and Smt. Sumathi Dandapani, the learned counsel of the respondents. Though the respondents have contended that remedical examination was not done by the same doctor, it has been fairly conceded by Smt.Sumathi Dandapani that the Chief Medical Superintendent, Palakkad Dr.Prasad was not an Ophthalmologist and that the applicant was not examined by any other Ophthalmologist than Dr.Muraleedhar. The applicant had appealed to the fourth respondent aggrieved by the decision that he is not fit based on the report of Dr.Muraleedhar, Ophthalmologist. Therefore the remedical examination in the case of the applicant should have been held by another Ophthalmologist before the offer of appointment was cancelled by the impugned order Annexure A9. The impugned order Annexure A9 is therefore liable to be set aside.

In the result, the impugned order Annexure A9 is set aside. The fourth respondent is directed to have the applicant examined by a competent Ophthalmologist and thereafter take a decision on the applicant's fitness in Aye one category and



inform the 1st respondent the result thereof within a period of three months from the date of receipt of a copy of this order. If the decision on such remedical examination happens to be in favour of the applicant, i.e, if he is found medically fit in Aye one category, the applicant shall be considered for appointment as Diesel/Electrical Assistant on the basis of Annexure A1 and resultant orders issued within one month thereafter. No order as to costs.



(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER



(A.V.HARIDASAN)
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: A true copy of offer of appointment No.J/P-268/V /PR/DSL. Asst./Vol.II dated 3.11.1999 from the 1st respondent to the applicant.
2. A-2: True copy of letter No.J/P.268/V/PR/DSL. Asst.Vol.II dt.17.12.1999 from the 1st respondent to the applicant.
3. A-3: True copy of appeal dt.31.12.99 submitted by the applicant before the 4th respondent.
4. A-4: True copy of letter No.J/P.268/V/PR/Dat/Vol.III dt. 16.2.2000 from the 1st respondent to the applicant.
5. A-5: True copy of letter No.J/MD.84/III/Vol.II dt.5.1.2000 by the Medical Superintendent, Palakkad to the applicant.
6. A-6: True copy of the representation dt.16.1.2000 by the applicant submitted before the 4th respondent.
7. A-7: True copy of the letter No.J/P.268/V/VR/DAT/III dt.29.3.2000 from the 1st respondent to the applicant.
8. A-8: True copy of representation dt.29.3.2000 submitted by the applicant before the 1st respondent.
9. A-9: True copy of letter No.J/P-268/V/PR/SDL/Asst./ Vol.II dated 13.7.2000 by the 1st respondent to applicant.
10. A-10: True copy of representation dt.2.8.2000 by the applicant before the Chief Personnel Officer, Southern Railway, Chennai.
11. A-11: True copy of the representation dt.28..12.2000 by the applicant submitted before the Hon'ble Minister of States for Railways.
12. A-12: True copy of the D.O letter No.J/G.120/MOSR Ref. dated 15.3.2001 from the Divisional Railway Manager, Palakkad to Sri A.V.S.Rao, Asst. Private Secretary to the Hon. Minister of States for Railways.
13. A-13: True copy of the representation dt.1.5.01 from the applicant to the Asst.Private Secretary to the Hon'ble Minister of States for Railways.
14. A-14: True copy of Medical Certificate dt.26.5.2000 in respect of the applicant issued by Kasturba Medical College and Hospital, Manipal.

Respondents' Annexure:

1. R-1: Photocopy of Medical Certificate issued to the applicant by the Senior Divisional Medical officer, Railway Hospital, Palghat, vide No.A1/60/12/99 dt. 1.12.99/2.12.99.

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