

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.184/09

Wednesday this the 29th day of April 2009

C O R A M :

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

Shanmughan.R.,
S/o.Ramachandran,
Residing at 7/184,
Vadakkathara, Chittoor, Palakkad.

...Applicant

(By Advocate Mr.R.Sreeraj)

Versus

1. The General Manager,
Hindustan Organic Chemical Limited,
Ambalamugal, Ernakulam – 682 302.
2. The Deputy General Manager (P&A),
Hindustan Organic Chemical Limited,
Ambalamugal, Ernakulam – 682 302.

...Respondents

(By Advocate M/s.Menon & Menon Associates)

This application having been heard on 29th April 2009 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant has filed this Original Application aggrieved by the failure on the part of the respondents to appoint him to the post of Technician (Utilities) Grade III. The applicant was medically examined by the Company Doctor, namely, Dr.Rakesh Chandran, Consultant Ophthalmic Surgeon, RCM Eye Hospital, Tripunithura and it was reported that his "Colour Vision is partially defective especially red colour."



2. The contention of the applicant is that he has no such defects in colour vision and the medical report by Dr.Rakesh Chandran is not correct. He has, therefore, approached the Medical College Hospital, Department of Ophthalmology, Thrissur and got himself medically examined. According to the certificate given by Dr.Deleep Kumar K.V., M.B.B.S., M.S. (OPH) D.O., Assistant Professor of Ophthalmology, Government Medical College, Thrissur, his visual parameters are normal. The following is the details of the visual status given by Dr.Deleep Kumar :-

"Distant vision	6/6 Both eyes
Near vision	N6 Both eyes
Colour vision	Normal
Field of vision	Full in BE
Squint	ADS
No adrepal pathology.	
His visual parameters are normal except for Alternate Divergent Squint."	

3. On issue of notice in this OA to the respondents, they have filed a reply statement stating that only the certificate issued by the Medical Officer of the respondent is relevant and material and the other certificate issued by the Medical College Hospital, Department of Ophthalmology, Thrissur was misconceived. They have also stated that the applicant is suffering from early onset of hearing loss in both ears.

4. We have heard Shri.R.Sreeraj for the applicant and Shri.U.K.Devidas on behalf of M/s.Menon & Menon Associates for the respondents. It is not understood as to how the respondents have come to the conclusion that the applicant is also suffering from hearing loss. At least that was not the reason for denying him the appointment with the respondent. In any case, we cannot agree with the contention of the respondents that their doctor is absolutely infallible and, therefore, what he would say is the final verdict.



When there is a dispute regarding the medical suitability of a candidate between two doctors, the respondents cannot insist that they will go according to the advise of their panel of doctors alone. In our considered view a third opinion is absolutely necessary in the matter. We, therefore, direct the General Manager of the respondents company to refer the matter to the District Medical Officer, Ernakulam who shall form a panel of doctors to examine the applicant both on his alleged problems of hearing as well as vision. While constituting the panel the respondents may request the District Medical Officer, Ernakulam to include Shri.Rakesh Chandran also in the said panel. We also direct that the respondents shall go strictly according to the advise of the panel of doctors so appointed in the matter. The respondents shall make necessary reference to the DMO within a period of two weeks from the date of receipt of a copy of this order. The result of the medical advise of the panel shall also be communicated to the applicant. Till such time, the respondents shall not fill up one of the vacancy of Technician (Utilities) Grade III available with them, as ordered by this Tribunal in this O.A on 23.3.2009.

5. With the aforesaid directions, the O.A is disposed of. There shall be no order as to costs.

(Dated this the 29th day of April 2009)


K.NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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