

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
XXXXXX

235 OF 1990.

DATE OF DECISION 12.9.1991

A.P. Prekash

Applicant (s)

M/s K. Ramakumar &

Advocate for the Applicant (s)

V.R.Ramachandran Nair

Versus

The Railway Board repre-

sented by its Chairman,
New Delhi and others

M/s MC Cherian,

Saramma Cherian & TA Rajan

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman

and

The Hon'ble Mr. N.Dharmadan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(Hon'ble Mr.N.Dharmadan, Judicial Member)

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The applicant ~~has been selected~~ has been selected for the post of Assistant Station Master, pursuant to the notification issued by the Railway Service Recruitment Board, Bangalore. After the interview he has been selected and Annexure-A communication was issued to him offering the appointment. Annexure-B was also issued directing to attend for the training to be commenced on 26.6.89. However, there was a medical examination fixed on 24.6.89. He attended ~~for~~ the medical examination. Soon after the medical examination the applicant was informed that he ^{could} ~~cannot~~ be selected as he was declared medically unfit for holding the post of Asstt. Station Master for the reason that one of his legs is slightly shorter than the other. He filed Annexure-C representation

before the Chief Personnel Officer, Southern Railway with the prayer that his case may be considered sympathetically and he may be examined by another medical Board or grant him alternate employment suitable for him. He has also produced Annexure-E certificate obtained from the Alleppy Medical College Hospital in which it is stated that the extent of physical disability is only 20 per cent. The applicant submitted that he is fit enough to hold the post of Assistant Station Master and he filed Annexures F and G representations also. These representations have been disposed of rejecting his request. Under these circumstances he has filed this application under Section 19 of the Administrative Tribunals Act for a direction to respondents to appoint the applicant pursuant to Annexure-B letter as Assistant Station Master in the Southern Railway.

2. The respondents have filed a reply affidavit contending that the post of Station Master is an important post which comes in the safety category requiring quick movements and manual operations and cannot be held by a physically handicapped person. The rules do not provide for appointing such handicapped persons in the post of Assistant Station Master. Regarding Annexure-E certificate they stated that it does not satisfy the requirements of the Rules governing the same.

3. The applicant has filed a rejoinder producing a notification issued by the Railway Recruitment Board, Bombay in support of his case that even physically handicapped persons are eligible to be appointed as Assistant Station Master. The applicant is fully eligible and his disability is only 20 per cent which may not be treated

as a disqualification for posting him as Assistant Station Master in the Railways.

4. We have heard the arguments of the ^{Learned} ~~counsel~~ and perused the records. In the view that we are taking this case it is not necessary for us to go into the controversy arises in this case at this stage.

5. Having regard to the certificate Annexure-E produced by the applicant after the decision taken by the respondents that the applicant is unfit for the job based on the medical certificates Annexure.R.4 and R.5 issued by the Railway doctor, we are of the view that the applicant's case requires further examination by the Railways in the light of Rule 525 of the Indian Railway Medical Manual which is brought to our notice. The Rule reads as follows:

"525 (a) (ii): If any medical certificate is produced by a candidate as a piece of evidence about the possibility of an error of Judgment in the decision of the first medical authority, the certificates will not be taken into consideration unless it contains a note by the Medical practitioner concerned to the effect that it has been given in full knowledge of the fact that the candidate has already been rejected as unfit for service by the medical authority appointed by the Government in this behalf."

The aforesaid Rule of the Railway Manual indicates that once a candidate is rejected on the ground of medical ^{and} ~~unfitness~~ he produces medical certificate from another competent doctor, it should contain an endorsement to the effect that the said certificate has been issued with the full knowledge of the fact that the candidate has been denied employment on the ground of medical unfitness on the basis of a certificate issued by the medical authority of the Railways. Such an endorsement is absent

in Annexure-E medical certificate produced by the applicant. The applicant is prepared to produce a medical certificate satisfying the requirements of the above Rule.

6. Under these circumstances, we are of the view that the interest of justice will be met in this case if we direct the applicant to furnish the proper medical certificate satisfying the requirements provided under Rule 525 as indicated above before the 3rd respondent within a period of two months from the date of receipt of a copy of the judgment. Accordingly we do so. If such a certificate as indicated above is produced by the applicant with a request for reconsideration of the claim of the applicant to be posted as Assistant Station Master as per Annexure-B selection, we further direct the 3rd respondent to consider the same and dispose of the applicant's grievances within a period of one month from the date of submission of the certificate and the request.

7. The application is disposed of accordingly. There will be no order as to costs.


12.9.91
(N.D. HARMADAN)
JUDICIAL MEMBER


12.9.91
(S.P. MUKERJI)
VICE CHAIRMAN

12.9.1991

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