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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

O.A. NO.19 of 2005

This the 12th day of January, 2005.

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

HON'BLE SHRI S. P. ARYA, MEMBER (A)

Ram Chandra Shukla S/O Omkar Nath Shukla,
R/O 213/18, Chhachhi Kuwan, Lucknow-3
and working as Senior Khalasi Ticket No.69
under Senior Material Manager (D),
Northern Railway,
Charbagh, Lucknow.

... Applicant

(By Shri K. K. Singh, Advocate)

-Versus-

1. Union of India Ministry of Railways
through its Principal Secretary,
New Delhi.

2. General Manager (P),
Northern Railway,
Baroda House, New Delhi.

3. ^{Chief Material}
Deputy General Manager,
Northern Railway, Alambagh (Stores),
Lucknow.

... Respondents

24/1/05 of Hon'ble By Shri Raj Singh, Advocate)

O R D E R (ORAL)

Hon'ble Shri Shanker Raju, Member (J) :

DR
24/1/05

Applicant who was eligible to appear in the selection, unfortunately, met with an accident which caused fracture in his leg. Instead of approaching the competent Railway medical authorities, applicant straightway approached the KGMC, Lucknow and got his leg plastered. His request to the Railways to hold a supplementary test at his residence was turned down by the authorities on the ground that second supplementary test is permissible only on administrative exigencies. Further by the present application though several grounds to challenge the selection have been raised, but basically it is contended that in the light of the provisions, a supplementary examination be directed to be conducted in case of the applicant.

2. We find that Paragraph 223 (1) (c) of the Indian Railway Establishment Manual provides that a supplementary examination can be held in case the sickness of the candidate concerned is unavoidable and impedes his participation in the selection, but with a rider that the same should be covered by a medical certificate from the competent Railway medical authority.

3. In this view of the matter, after hearing the parties, the OA stands disposed of with a direction to the respondents that in case the applicant produces a sickness certificate from Railway authorities, the same should be looked into for consideration of holding supplementary test in accordance with para 223 ibid.

4. The learned counsel of respondents vehemently opposed the contention of the applicant and produces P.S. No.8622A dated 15.11.1984 to contend that by virtue of this letter only in case of administrative exigencies supplementary examination can be held. The learned counsel of respondents states that as the request of the applicant was to subject him to a written test at his residence, he is estopped from taking the plea of supplementary test. We do not agree with the learned counsel of the respondents. Once a party has a right to be considered in a particular manner as envisaged in the rules, it is incumbent upon the respondents to act in accordance with those rules. Moreover, we find that this is an exceptional case where the applicant has been genuinely inflicted an injury and due to his sickness has been rendered incapacitated to appear in the examination, and whatever be the arrangements made by the respondents, as stated in the impugned order

yet we find that the applicant was not in a position to attend in that manner as well. So, we rely upon paragraph 223 ibid to issue these directions.

5. The OA stands disposed of as above. No costs.

24/3/
(S. P. Arya)
Member (A)

S. Raju
(Shanker Raju)
Member (J)

/as/