

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 328/90

Vinod Kumar

Applicant

versus

Union of India & ors.

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. A.B. Gorthi, A.M.)

Applicant Shri Vinod Kumar who was selected for appointment as Fitter (C&W) under the Divisional Railway Manager, Northern Railway, Lucknow, ^{but} was denied the appointment on the ground that he was medically unfit, has filed this application praying that the respondents be directed ~~for~~ to take the applicant in service on the post for which he was already selected.

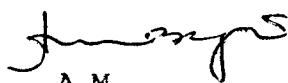
2. The applicant was selected for the post of Fitter (C&W) on 29.9.88. Thereafter, when he was subjected to the required medical examination, he was declared unfit. On his appeal he was again subjected to another medical examination but the result was the same. Thereafter, he was referred for treatment to the Railway Headquarters Hospital Southern Railway, Madras where he underwent close heart surgery on 3.8.89. The Senior Cardiac Surgeon

of the said Hospital gave a certificate dated 17.10.89 declaring that the applicant was "fit to do any job". Armed with the said certificate, the applicant once again approached the respondents requesting that he should be employed as Fitter (C & W) or be given any other alternate employment in the railways. Failing to get any favour from the respondents, the applicant has approached the Tribunal.

3. The respondents have brought out that the applicant tried to mislead by giving an impression that he was referred to the Southern Railway Headquarters Hospital in his capacity as a candidate for employment. The fact, however, is that after he was rejected medically, he was sent to Madras because he happened to be the son of a railway employee and as such he was entitled for such a reference and treatment at Railway Hospital in Madras. The respondents' contention is that the applicant was initially/medically unfit, and ~~and even on appeal he was found~~ ^{found} ~~against the same~~ ¹ and even on appeal he was found ~~subsequent~~ medically unfit. The fitness certificate given by the doctors of the Railway Hospital at Madras has no bearing on the merits of the case. The respondents further allege that the applicant indulged in an act of forgery and fraud, in that, he altered the medical certificate by erasing the letters 'UN' in the word 'UNFIT'. We find that there are two important issues to be decided in this case. Firstly, it must be clearly

established whether or not the applicant indulged in the act of forgery/fraud as alleged by the respondents; secondly whether the applicant is now, medically fit or unfit for employment. On the first issue it will be appropriate and in the interest of justice if an enquiry is held associating the applicant therein to determine whether any act of fraud or forgery was committed by him. If his guilt is established in the enquiry, the applicant's request for employment should be rejected outright. If, however, the enquiry does not establish his guilt, then the railway authorities should allow him to appear for a fresh medical examination, to determine his fitness or otherwise for employment. We have no doubt that at the said medical examination, due weightage will be given to the certificate rendered by the Senior Cardiac Surgeon, Southern Railway Headquarters Hospital, Madras. The enquiry and medical examination if it becomes necessary, shall be completed within a period of two months from the date of communication of this judgment.

The application is disposed of in the above terms without any order as to costs.


A.M.


V.C.

Shakeel/

Lucknow: Dated: 24-1-92-