

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

O.A.No. 292/92

Tuesday this the 8th day of February, 2000

CORAM:

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

Smt. Indra Kumari
aged about 33 years, wife of Sri Rakesh
Resident of Fateh Ali Ka Talab,
Lucknow. ... Applicant

(By Advocate Mr. R.B. Pandey)

V.

1. Union of India through the General Manager (P) Northern Railway Baroda House, New Delhi.
2. Divisional Railway Manager Northern Railway, Head Office Hazratganj, Lucknow.
3. Chief Medical Superintendent, Divisional Railway Hospital, Northern Railway, Lucknow.
4. Chief Medical Inspector, Northern Railway, Charbagh, Lucknow.... Respondents

(By Advocate Mr. A. Srivastava)

The application having been heard on 4.2.2000, the Tribunal on 8.2.2000 delivered the following:

ORDER

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

The facts in this application depicts the story of an unfortunate woman towards whom the nature as also the mankind appeared to have been uniformly unkind.

Borne with one eye the applicant once succeeded getting employment under the Railways as a Safaiwali. Prior to her engagement as Safaiwali on 13.12.83 she had been medically

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examined by the Divisional Medical Officer, Ophthalmology Northern Railway Hospital, Charbagh who certified that she was handicapped by one eye (Annexure A2). On the basis of the above, the applicant continued in service and was granted the C.P.C. pay scale. However, the applicant was sent for a medical examination for regularisation on the post but unfortunately as she was found medically unfit with effect from 20.1.1990 she was not given further engagement. She went on making representations but without success. Therefore, she approached this Tribunal filing O.A. 333/1991(L). The Tribunal by its order dated 18.9.91 directed the Divisional Railway Manager, Lucknow to consider and dispose of her representation. The representation was disposed of by the impugned order Annexure I informing that the applicant did not satisfy the medical standard for appointment as Safaiwali, ^{and} that as there is a ban imposed by the Railway Board for appointment of disabled candidates, her case would be considered if she applies as and when recruitment of handicapped persons is being made. It is the case of the applicant that she was engaged as a Safaiwali and continued on the post for several years after having been certified physically handicapped by a railway doctor and therefore the action on the part of the respondents in denying work and wages to the applicant is arbitrary, irrational and wholly unjustified. As there was no need to send the applicant for medical examination for regularisation as she was appointed against a sanctioned

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post on the basis of a disability certificate issued by the railway doctor, the impugned action on the part of the respondents is not justified, states the applicant. With these allegations, the applicant has filed this application for a direction to the respondents to take back the applicant in service with full backwages and attendant benefits.

2. The respondents in their reply statement contend that the applicant has been found unsuitable in Cee-one and Cee-two categories when examined for the purpose of screening and regularisation and therefore, the applicant has no right to claim the relief as sought. The allegation that the applicant was appointed against an existing post in the disability quota is denied. It has also been indicated that the appeal submitted by the applicant against the decision of the medical authorities has been rejected by the Chief Medical Officer, Northern Railway, New Delhi.

3. After hearing the applicant who was present in person, the learned counsel appearing for her and the learned counsel appearing for the respondents, we are of the considered view that the applicant's case has not been considered by the Chief Medical Officer, Northern Railway, New Delhi as also by the other authorities properly bearing in mind the fact that she had been continuously working as a Safaiwali for about seven years and that with the congenital ophthalmological deficiency

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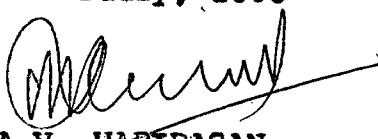
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she had been performing the work without giving any reason for complaint. The authorities have ~~not~~ also been ^{not bear} ~~an~~ ^{in mind} ~~abreast~~ of the provisions of the Persons with disabilities Equal Opportunities, Protection of rights and full parn. Act. 1995. Further more a matter which should have been dealt with in an humanitarian angle appears to have been dealt with in a mechanical manner. From the appearance of the applicant in court, it appears that apart from the blindness on one eye, the applicant appears to be healthy and capable of performing the duties. In any case the suitability for railway service is to be adjudged not by the Tribunal but by the competent medical authority in the Railways. We are of the considered opinion that this is a matter in which the Railway administration has to take a more sympathetic and realistic view.

4. In the light of what is stated above in the foregoing paragraph, we dispose of this application with a direction to the second respondent to subject the applicant to an examination by a board of two medical officers to ascertain her suitability for any Class IV post in the Railways and if found suitable to appoint her in any post commensurate with her physical standard without any further delay. The direction as aforesaid shall be complied with and necessary orders issued by the second respondent as expeditiously as possible but at ⁰ any rate not later than three months from the date of receipt of a copy of this order. There is no order as to costs.

Dated the 8th day of February, 2000


J.L. NEGI
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN