

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW

O.A. NO. 257/89 (L)

Mannilal and Others Applicants.
Versus
Union of India & Others Respondents.

Hon. Justice K. Nath, V.C.

Hon. Mr. K.J. Raman, A.M.

(By Hon. Justice K. Nath, V.C.)

This is an application under Section 19 of the Administrative Tribunal Act, 1985 for quashing the orders dated 3.9.1989 contained in Annexure A1 to A7 whereby the applicants' service in Railway were terminated on Medical ground.

2. It is not necessary to go into the details of the case as appear in the Affidavits exchanged between the parties because we find that the case could be decided upon the basic facts regarding the Medical Examination itself.

3. It appears that the applicants' had been engaged as Casual Labourers, and were put for Medical Examination for fitness in the year, 1984. Whatever may have been the result of that Medical Examination, they continued in employment till 3.9.1989, when the impugned retrenchment orders were passed. The impugned order mentioned that the applicants were retrenched from service under Section 25(F) of the Industrial Disputes Act. The reason stated is that the applicants' were found

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according to the Medical Examination reports, unfit for the post of Gang Man.

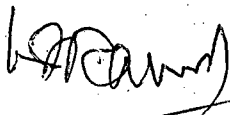
4. The question is whether they having been found unfit, if at all, in the year 1984, their services could have been terminated in the year 1989. The counter makes it out that the DMO, Northern Railway Bareilly and Medical Superintendent, Northern Railway Moradabad had informed the Department by Letters' dated 23.8.1989 and 21.8.1989 about the result of the applicants' Medical Examination, in which they had been found unfit for the post of Gang Man. Annexure 1 & 2 are supposed to contain this report. One of the persons named in Annexure 1, Shri Ram Shankar, is one ^{of} the applicants'; the rest of the applicants' are in Annexure 2. According to Annexure 1, the Medical Examination of Shri. Ram Shanker was done on 26.6.1985. According to Annexure 2, the Medical Examination of the rest of the Applicants' was done between April and Oct. 1984.

5. The contention of the learned counsel for the opposite parties is that the original report of Medical Examination never came to the Department in the appropriate time because the persons interested manipulated their non movement. Be that as it may, that fact remains that the person concerned with the despatch and receipt of the Medical Certificates must be the concerned staff of the Railway which couldnot, by itself, justify the Department to act upon these Medical Reports after 4 or 5 years. The established fact is that despite Medical Examination, the applicants were continued to be working as Gang Men for about 5 years. In our opinion, the impugned order of retrenchment is arbitrary and unreasonable and can not be sustained. The Department should

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have realised that the least they should have done was to subject the applicants for fresh Medical Examination in the year, 1989 before retrenching the applicants

6. The application is allowed and the impugned order of retrenchment of the applicants from service contained in Annexure A1 to A7 are quashed. They shall be treated to be continued in service and shall be paid their back wages, if not already paid. It will be open to the opposite parties to subject the applicants to a fresh Medical Examination for fitness in accordance with the applicable rules.


MEMBER (A)


VICE CHAIRMAN

Dated: 6th, April, 1990.