

(85)

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW.

O.A.No.339 of 1989

Ronald Frey & anotherApplicant.

Versus

Union of India & othersRespondents.

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

Hon'ble Mr. A.B. Gorthi, A.M.

(By Hon'ble Mr. U.C. Srivastava, VC)

Aggrieved with the order passed by the Divisional Manager, Northern Railway, Lucknow dated 4.5.89 rejecting the representation filed by the applicant on 13.7.87 in respect of which a direction was issued by this Tribunal vide order dated 13.4.89 in O.A.No.230 of 1988. Therefore, the applicant has again approached this Tribunal after rejection of his representation in respect of appointment of applicant's son on compassionate ground as the applicant retired from service in railway department having been declared medically unfit.

2. The applicant, who was Driver 'A' in the railway at the relevant point of time, stated that the applicant remained sick from 2.7.83 to 19.10.83 and he was kept under observation for three months and the disease which was discovered by the doctor was 'IHD' with recommendation for light duty. Thereafter, the applicant was called for medical examination 8.11.85 and 24.11.85 and the disease diagnosed was 'Ischemia' which is a heart disease. The applicant was admitted to the Cardiology Department from 7.12.85 to 13.12.85. The applicant thereafter developed some mental disease on 5.11.86 and was hospitalised for further evaluation on 14.1.87 and

(8/8)

a detailed assessment showed impairment of memory, intelligence and judgment, and also showed secondary depression and marked anxiety. On 31.1.87, the applicant moved an application before the Additional Chief Medical Officer, Northern Railway, Lucknow for making necessary arrangements for constituting a Medical Board for considering his case on the basis of medical report of the Lucknow Medical College. The Medical Board was not constituted for more than five months which was contrary to the Indian Railway Establishment Manual and Railway Establishment Code. Thereafter, it was decided in the PNM meeting that the Medical Board should finalise the cases for invalidation from service on medical grounds in not more than three months from the date of receipt of report from the medical department. The applicant was declared to be totally incapacitated for any job in the railways on 23.1.87 by the specialist of Lucknow Medical College.

3.. The respondents have admitted previous ailment of applicant no.1 and his admission in King George College, Lucknow. The respondents have also admitted that after the receipt of letter dated 16.2.87 for constituting the Medical Board, the Chief Medical Officer made a query about date of birth and date of retirement of the applicant no.1 vide letter dated 23.3.87. Thereafter, the Medical Board recommended that the applicant may be invalidated out of service in all categories on medical grounds which was accepted by the Chief Medical Officer, Northern Railway, New Delhi vide letter dated 30.6.87 which indicates that the representation of the applicant was accepted. It has further been mentioned that the four persons were declared totally invalid and their wards have been

given appointment on the ground of medical incapacitation. The circular letter of the Rialway Board issued in this regard is a guide line which states that the cases of this type may normally be decided within ~~three~~ months but in the extra-ordinary circumstances the time may be more than three months. The case of applicant no.1 was referred to the Medical Board but due to unavoidable circumstances, the same could not be finalised before 30.6.87. The facts indicate that there are many candidates in the waiting list. Obviously, the applicant cannot get precedence in the waiting list though the case of the applicant stands on better footing. The respondents are directed to include the name of applicant no.2 in the waiting list and consider his case for appointment on compassionate ground. Accordingly, the application is disposed of with the above observations without any order as to cost.


MEMBER(A)


VICE CHAIRMAN.

Dated: March, 3, 1992

(ug)