

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

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Original Application No. 382 of 1991

this the 30th day of July, 1997.

HON'BLE MR S.DAS GUPTA, ADMN. MEMBER  
HON'BLE MR D.C. VERMA, JUDICIAL MEMBER

B.P. Yadav, aged about 37 years, S/o Sri T.B. Yadav,  
R/o II 14-A Railway Rest House Colony, Prayag, Allahabad  
Guard, Northern Railway, Lucknow Division, Headquarter  
at Allahabad.

Applicant

By Advocate : Sri K.P. Srivastava

Versus

Union of India through General Manager, Northern Railway,  
Baroda House, New Delhi.

2. Chief Medical Superintendent, N. Railway, Allahabad.

3. Chief Medical Officer, N. Railway, Baroda House,  
New Delhi.

4. Senior Medical Officer, N. Railway, Allahabad.

5. Divisional Railway Manager, N. Railway, Lucknow.

Respondents

By Advocate : Sri K.K. Singh for Sri M. Sinha

ORDER (ORAL)

S.DAS GUPTA, MEMBER(A)

In this O.A., the applicant is aggrieved  
by an order dated 19.3.91 issued by the Chief Medical  
Superintendent, Northern Railway, Allahabad by which  
it was communicated to the applicant that C.M.O.,  
Northern Railway had upheld the decision of Northern

Railway, Allahabad with regard to medical disability of the applicant.

2. From the facts averred it appears that the applicant, who was working as a Guard had suffered a fit of unconscious. He was examined by Railway doctor and later by a Specialist to whom he was referred by Railway Medical authorities. A copy of the report of examination by the Specialist which is Annexure A-3, indicated that the applicant had normal computed tomographic study of the cranium. Thereafter, he was further examined and the Divisional Medical Officer, Allahabad was of the opinion that the applicant was suffering from Epilepsy. The applicant had represented against this finding to C.M.O. and the C.M.O. desired that E.E.G. of the applicant should be examined in consultation with a Specialist. It appears that thereafter E.E.G. was examined in consultation with a Neurologist in the railways and finally C.M.O. upheld the view of the Divisional Medical authorities, Allahabad. The applicant was accordingly found unfit for the work of Guard and was offered an alternative job in the clerical cadre.

3. The applicant's contention is that he had only once suffered from the fit of unconscious and he was not a patient of Epilepsy. In support of this, he relies on the report of the Specialist at Annexure-3 and also the report of another Specialist by whom, he was examined, though not being referred by the railway authorities (Annexure 5 & 6). He has also pointed out that the unfit report which was rendered to him by the medical authorities, Allahabad, copy of which is at as Annexure-9, shows that the applicant was recommended to be given duty as per para 573 of the Indian Railway

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Medical Manual. His contention is that para 573 of the Manual relates to only those who were mentally unsound.

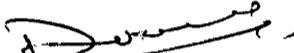
4. The respondents have filed their Counter affidavit in which they have asserted that the applicant was examined in consultation with the Specialist and he was found to be suffering from Epilepsy and, therefore, his category was changed. They have further contended although the applicant had requested for being examined by railway medical board, the same was not allowed, since there was no mandatory provision that on every such appeal a medical board be constituted.

5. We have carefully gone through the submissions made by the learned counsel for both the parties. We have noticed that the medical authorities, Allahabad, had granted fitness certificate to the applicant and recommended that the applicant be given duty in terms of para 573 of the medical manual. There is no denial that this para relates to employees of unsound mind. It is common knowledge that Epilepsy is a neurological disease and is ipso facto not indicative of mental unsoundness. The fitness certificate, therefore, would cast a doubt on the objectivity with which the applicant was medically examined. This view would be strengthened by the fact that there are certain reports to the effect that the applicant had suffered only once from the fit of unconscious. There is also a certificate given by a Specialist which appears to go in favour of the applicant. No doubt, the applicant was not referred to him but at the same time this report cannot be totally discounted. We have noticed that there is a provision in para 552 of the medical manual that the Chief Medical officer consider the medical examination of any railway employee by railway medical board for special reasons such a medical board can be constituted. We are of the view that there are special features

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in this case, which would justify constitution of a medical board.

6. In view of the foregoing, we dispose of the O.A. with the direction to the respondents to constitute a medical board as per para 552 of the medical manual and subject the applicant to an examination by such board. The respondents will be at liberty to pass any appropriate order based on the final out-come of the medical board in accordance with law. Let this direction be complied with within a period of three months from the date of communication of this order. The parties shall bear their own costs.

  
MEMBER (J)

  
MEMBER (A)

LUCKNOW : DATED: 31.7.97