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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTINGS AT NAGPUR

O.A.No. 708/89

1990.

T.A.No.

DATE OF DECISION 09.08.1990

Shri Gautam C.Meshram

Petitioner

Shri A.M.Gozdey

Advocate for the Petitioner(s)

V/s.

The Divisional General Manager,
South Eastern Railway,
Nagpur. and others

Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. G.Sreedharan Nair, Vice Chairman.

The Hon'ble Mr. I.K.Rasgotra, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? X
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal? X

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : NEW BOMBAY BENCH
NAGPUR.

O.A.708/89.

Gautam C. Meshram ... Applicant.
-versus-
The Divisional General Manager,
South Eastern Railway, Nagpur
and others ... Respondents.

P R E S E N T :

The Hon'ble Sri G. Sreedharan Nair, Vice Chairman.

The Hon'ble Sri I.K. Rasgotra, Member(A).

For the applicant- Shri A.M. Godfrey, Advocate

For the respondents-

Date of hearing - 7.8.90

Date of Order - 9.8.90.

JUDGMENT & ORDER :

G. Sreedharan Nair, Vice Chairman :

According to the decision of the Railway Board, for appointment in Railway Service in Group 'C' and Group 'D' posts, there is reservation to the extent of 1% for the blind, 1% for the deaf and 1% for the orthopaedically handicapped.

2. The father of the applicant was working in the South-Eastern Railways as a Gangman. The applicant applied for appointment in the Railway service under the scheme of employment assistance to the physically handicapped or orthopaedically handicapped persons. He passed the written examination and the selection test. He was offered the post of Office Clerk in the grade of Rs. 260-400/- per month by the order dated 26.7.1983, subject to passing of the prescribed medical examination. The applicant appeared for the medical examination before the Divisional Medical Officer, South-Eastern Railway. He was declared as unfit in C-2 category as his eyesight was found to be weak. Hence, the applicant was not allowed to join the post of Office Clerk.

3. After purchasing suitable glasses, the applicant applied for re-medical examination ~~by~~ the Chief Medical Officer at Calcutta. However, the re-examination was directed to be conducted by the Divisional Medical Officer at Nagpur. Again, the report was ~~against~~ him.

4. The applicant persisted in his examination by the Chief Medical Officer, Calcutta and, accordingly, he was examined by him in June, 1987. But it is alleged by the applicant that he was not appointed against the quota of physically handicapped persons, in the category of orthopaedically handicapped person.

5. The applicant was again sent for medical examination to find out whether he can be accommodated in the ~~blind~~ ^{for the blind} quota, but the report was against him. His grievance is that the report went against him because he was examined with contact lenses.

6. The applicant prays for the issue of a direction to the respondents 1 and 2 to appoint ~~the~~ ^{him} applicant in the post of Office Clerk, or to any other suitable post from the quota of physically handicapped persons in an appropriate category of orthopaedically handicapped persons or of blind persons. He further prays for a direction for a proper medical examination regarding his eye-sight.

7. In the reply filed on behalf of the respondents, it is contended that the application is barred by limitation. It is stated that the applicant could not be given appointment as Office Clerk as he failed ~~to~~ in the medical examination and was found unfit for appointment against the disabled quota on account of blindness.

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8. This is an unfortunate case where the respondents failed to consider the matter with a humanitarian approach. The reservation of posts for the physically handicapped persons has been allowed with a view to advance the conditions of such persons and to enable them to pull on as any other citizen. No doubt, the applicant applied for appointment against the quota reserved for the orthopaedically handicapped. In the course of medical examination he was found to be blind. Instead of denying him the employment, the respondents should have considered whether the applicant can be accommodated against the quota for the blind. Admittedly, the applicant has passed the prescribed examinations, and it was thereafter that the post of Office Clerk was offered to him by the letter dated 26.7.1983. From the records before us, it cannot be said that the applicant had been found unsuitable for any post in Group 'C' or Group 'D' against the over-all quota reserved for the physically handicapped persons. As such, we are of the view that the respondents have to be directed to examine the matter afresh and find out whether the applicant is suitable and can be accommodated against any of the posts in Group 'C' or 'D' against the over-all quota reserved for the physically handicapped persons, either against the 1% reserved for the orthopaedically handicapped, or against the 1% reserved for the blind. We direct the respondents to do so within a period of three months from the date of receipt of the copy of this order.

9. It is indeed the unkindest cut on the part of the respondents to raise the plea of limitation. At any rate, we cannot accept the contention that the cause of action arose from 1983, since the offer of appointment was made in that year. The grievance of the applicant is against the denial of appointment, which is a continuing cause, and for which the applicant was all along pursuing the matter.

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10. The application is disposed of as above.

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(I.K.Rasgotra)
Member(Admn).

Reson
(G.Sreedharan Nair)
Vice Chairman.
9.8.1990

S.P. Singh/
8.8.90.