

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No. 741 of 2005

Date of order : 21.07.2008

CORAM

Hon'ble Ms. Sadhna Srivastava, Member (J)

Hon'ble Shri Amit Kushari, Member (A)

Rishikesh Tewary, S/o Shri Sidheshwar Tewary, residing at the back of Amirchand Kothi, Pakri, Arrah, District – Bhojpur, Bihar.

....Applicant

By Advocate : Shri G. Bose

Vs.

1. The Union of India through the General Manager, Western Railway, Mumbai.
2. The General Manager [E], Western Railway, Mumbai.
3. The Divisional Railway Manager, Mumbai Central Railway, Mumbai.
4. The Divisional Railway Manager [E], Mumbai Central, Western Railway, Mumbai.
5. The Assistant Personnel Officer [G], Mumbai Central, Western Railway, Mumbai.

....Respondents

By Advocate : Shri Mukund Jee.

ORDER [Oral]

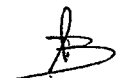
S. Srivastava, M (J):- Heard learned counsel for the parties.

2. By means of this OA the applicant has challenged the order dated 3rd September, 2005 as contained in Annexure A/1 whereby the applicant's request for alternative appointment has been rejected for want of vacancy.



3. The facts, in brief, are that the applicant had applied for the post of Apprentice Supervisor in the scale of Rs. 4500-7000/-, in pursuance of advertisement notice No. 1 of 2003 issued by the Railway Recruitment Board, Mumbai and Bhopal jointly. The applicant finally got selected vide result declared by Railway Recruitment Board [RRB in short] Mumbai on 14.12.2004. ^{by} The respondents have issued appointment letter in favour of the applicant dated 24.1.2005 [Annexure A/5]. He was called for medical test. He was declared medically unfit in category 'A-3' in the vision test, but found fit for 'B-2' category. The applicant filed representation before the respondents to provide him alternative suitable appointment on any other post, according to his medical category. His representation was decided and rejected vide order dated 13.9.05 for want of vacancy, hence this OA.

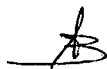
4. The respondents have filed written statement as well as supplementary written statement stating therein that as per Railway Board' order, the candidates found medically unfit for the post to which they are selected and found fit in lower medical category can be considered for alternative job, subject to fulfillment of prescribed medical standard, educational requirement and other eligibility criteria for the same grade post only. There is no provision to consider such candidate for alternative job in lower categories where pay scale is less. They further stated that the applicant was given an offer of appointment in the scale of Rs. 4500-



7000/-, but he was found medically unfit for the above post in 'A-3' category and found fit for 'B-2' category, but no suitable post was available in the grade of Rs. 4500-7000/- befitting his educational qualification and medical standard. Therefore, his request was turned down.

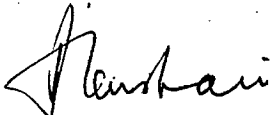
5. The applicant has brought certain documents on record which show that one Shri Anuj Kumar who was selected for the post of Apprentice Supervisor [Rs. 4500-7000/-] in the Engineering Department by the RRB , but found medically unfit for the same post. He was declared medically fit in 'B-2' category like the present applicant. He was offered alternative appointment as Mason Grade III [3050-4590/-]. There is another document on record to show that one Shri Sanjay Kumar Singh who was also selected through the RRB, Bhopal for the post of ASM in the pay scale of Rs. 4500-7000/-. However, he was found medically unfit for the post, but subsequently with the approval of the General Manager, he was considered and offered alternative appointment. Since there was no vacancy in the pay scale of Rs. 4500-7000/- , therefore, Shri Sanjay Kumar Singh was absorbed as Commercial Clerk in the pay scale of Rs. 3200-4000/- in Mumbai Division. Both the documents show that if a candidate is not found medically fit in a particular grade, he may be considered in the lower grade as per his medical standard.

6. In this view of the matter, we direct the General Manager to



examine the case of the applicant and pass suitable order, in accordance with rules, for his appointment in lower category. The above exercise shall be completed within three months from the date of receipt of copy of this order.

7. The OA stands disposed of, accordingly, without any order as to the costs.


[Amit Kushari] M [A]


[Sadhna Srivastava] M [J]

/cbs/