

CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

OA No.1052/1996

Mumbai, this 2nd day of November, 2001

Hon'ble Shri S.L. Jain, Member(J)
Hon'ble Shri M.P. Singh, Member(A)

S. Muthu & 30 others as mentioned in memo of
parties to the OA
(all working as Cleaners in the
Catering Deptt. of Western Rly
Churchgate, Mumbai) .. Applicants

(By Shri M.S.Ramamurthy with Shri R. Ramesh, Advocates)

versus

Union of India, through

1. General Manager
Churchgate, Mumbai
2. Chief Personnel Officer
Western Railway
Churchgate, Mumbai
3. Chief Catering Services
Manager, Western Railway
Mumbai Central, Mumbai
4. Senior Commercial Manager(Catering)
Western Railway
Churchgate, Mumbai
5. Assistant Catering Manager(Mobile)
Western Railway
Mumbai Central, Mumbai
6. Chief Catering Inspector(PCUnit)
Western Railway
Mumbai Central, Mumbai .. Respondents

(By Shri V.S.Masurkar, Advocate)


ORDER

Shri M.P. Singh

The only controversy involved in this case is whether the daily wagers working as Cleaners in the Railway Canteen who were granted temporary status after medical examination should be further subjected to medical examination at the time of their regularisation in C-I category.

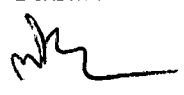


2. The facts of the case are that the applicants, 31 in number, were employed as Cleaners in the catering department of Western Railway prior to 1983. Initially they were engaged as casual labours and on completion of 120 days of service in broken/continuous periods, they were granted temporary status on different dates during the years 1982-1985. All the applicants who were conferred temporary status were directed to be medically examined for the category of Cleaners and found fit in C-I category. Thus the applicants are temporary employees in category C-1 for the past more than 10 years continuously without break. All the applicants are stated to have been working against regular posts of Cleaners. It is stated by the applicants that respondents issued a circular on 9.7.96 for screening 70 casual labours which included the names of 29 applicants herein. All the applicants appeared in the said examination and were found fit for regularisation. After the screening was over on 25 and 26.7.96, a further circular was issued on 6.8.96, by which applicants were asked to appear for further medical examination. According to the applicants, the said direction of the respondents to appear for re-medical examination is illegal and the applicants are not bound to undergo further medical examination before their services are regularised on the basis of their screening. Applicants have made a representation on 26.8.96 stating that they should not be subjected to remedical examination. No reply has been received from the respondents so far and hence they have filed this OA



seeking reliefs by praying for direction to quash the order dated 6.8.96 and further direction to regularise their services as Cleaners on the basis of screening held on 25-26.7.96, without insisting for further medical examination.

3. Respondents in their reply have stated that casual labours who have put in 6 years of service, whether continuous or in broken period, and included in the panel for appointment to Group D posts after screening are sent for medical examination, on first appointment to regular service. The standard of medical examination should not be the one that is required for first appointment but should be on a relaxed standard as prescribed for remedical examination. They have further stated that as per para IX(a) of office circular dated 25.4.90 casual labours who have put in 6 years or more have to undergo medical examination in C-I category even though they have passed the medical examination in C-I category in the past. It is further stated by the respondents that some of the applicants, namely 5, 9, 10, 11, 19, 23, 24 and 31 have already undergone medical examination and have been appointed on regular basis vide letter dated 11.12.96. Moreover, as per para 524 of Medical Manual remedical examination is required to be done before they are absorbed on regular basis. According to the respondents, as per sub-para 4(a) of para 2007 of IREM, medical examination of relaxed standard is compulsory for regularisation of casual labours, if it is done after 6 years. In view of the aforesaid submissions, the application is devoid of




merit and be dismissed with costs.

4. Heard the contentions of the rival contesting parties and perused the records.

5. During the course of the arguments, learned counsel for applicants submitted that as the applicants have already undergone medical examination at the time of grant of temporary status and were found fit in C-I category, they are not required to undergo further medical examination for grant of regularisation. In support of his claim, he has relied upon para 514(1)(c) of Medical Manual wherein it is stated that Class C-I and Class C-II will not be required to undergo any re-examination during the course of their service, unless specially directed.

6. On the other hand, learned counsel for respondents submitted that some of the applicants have already undergone medical examination and have been appointed on regular basis, although this fact was denied by the learned counsel for applicants stating that as per information available with him none of the applicants has undergone remedical examination. He also submitted that as per OM dated 25.4.90 applicants are again required to undergo medical examination but on a relaxed standard as prescribed. He also submitted that since the applicants are working in the catering department of the Railway it is all the more necessary to undergo medical examination before they are appointed on regular basis.



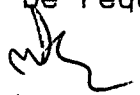
7. Now the only question for consideration before us is whether the applicants who were medically examined and were found fit in C-I category at the time of grant of temporary status more than 10 years back are further required to undergo medical examination before they are regularly appointed. Sub-para 4(a) of para 2007 of IREM provides as under:

"Casual labour should be subjected to medical examination as early as possible and preferably before grant of temporary status. Continued retention in employment is subject to qualifying in the prescribed medical examination. When casual labour who have put in six year service, whether continuous or in broken periods, are included in a panel for appointment to Group D posts and are sent for medical examination for first appointment to regular service, the standard of medical examination should not be the one that is required for first appointment but should be the appropriate standard as prescribed for re-examination during service."

Para 524(a) of Medical manual regarding relaxation at re-examination provides as under:

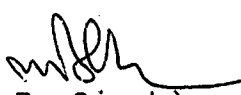
"The standards at re-examination would apply only for employees with not less than 6 years service. This could be permanent or temporary including continuous service as casual labour if in the same medical category."

8. From a perusal of records placed before us, we find that applicants No.5, 9, 10, 11, 19, 23, 24 and 31 have already undergone medical examination and as a result of this they have been appointed on regular basis vide order dated 11.12.96. Their names figure at Sl.No.7, 12, 14, 23, 26, 32, 33 and 34 of the aforesaid order. We also find that para 514(1)(c) of the Medical Manual, on which the applicants have relied not to undergo further medical examination, states that Classes C-1 and C-2 will not be required to undergo any re-examination



during the course of their service, unless specially directed. Therefore, the aforesaid rule of Medical Manual does not place a bar on the applicants to undergo further medical examination if specially directed by the respondents. In this case applicants were medically examined more than 10 years ago and therefore they are required to undergo remedical examination as per sub-para 4(a) of para 2007 of IREM at the time of their regularisation. The contention of the learned counsel for the applicants during the course of the arguments that none of the applicants has undergone remedical examination is not correct. The docket order dated 18.11.96 mentions that "Mr. Ramamurthy submits that the respondents have issued memos to all the applicants to the OA directing them to go for medical test and only 7 applicants have gone for medical examination and the rest have not gone for the medical examination".

9. In the light of the aforesaid discussions, we find no merit in the OA and therefore there is no ground to interfere with the order dated 6.8.96 directing the applicants to appear for medical examination. The OA is, therefore, dismissed but without any order as to costs.


(M.P. Singh)
Member(A)


(S.L. Jain)
Member(J)

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