

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

O.A.NO.662/2000

This the 11th day of March, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri K.V. Sachidanandan, Member (J)

Satish Chandra working as Pipe Fitter
Head Quarter Office
Churchgate, Mumbai 400 020

Residing at: Room No.5, 3rd Floor
Western Railway Domotry
Andheri -East

Applicant

(By Advocate: Shri G.S.Walia)

Versus

1. Union of India through
General Manager
Western Railway
Head Quarter Office
Churchgate, Mumbai

2. Chief Personnel Officer
Western Railway
Head Quarter Office
Churchgate, Mumbai - 400 020

Respondents

(By Advocate: Shri R.R.Shetty)

O R D E R

Shri Govindan S. Tampi:

Reliefs sought for in this case are as below:-

"a) this Hon'ble Tribunal will be pleased to order and direct the respondents to absorb the Applicant in the grade of Rs.4500-7000 from the date of his original appointment.

b) this Hon'ble Tribunal will be pleased to order and direct the Respondents to give seniority to the Applicant in the grade 4500-7000 from the date of his appointment in the railway service.

c) this Hon'ble Tribunal will be pleased to order and direct the Respondents to absorb the Applicant in the same scale in which he was selected from the date of his appointment in the Railways.

d) any other further order or relief may be passed or granted which the Hon'ble Court deems fit and necessary in the circumstances of the case.

e) cost of this application may be provided for."

[Handwritten signature/initials]

2. Heard Shri G.S.Walia and Shri R.R.Shetty, learned counsel for the applicant and the respondents respectively.

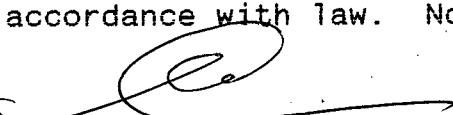
3. The applicant in this case was given alternate appointment as Fitter on 28.3.2000 as after his selection, he was found to be of B-2 class, his being colour blind. He holds MSc.PhD Degree in Maths. His prayer for alternative appointment has not been entertained by the respondents, who should have done so. According to him, he should have been appointed in the scale of Rs.4500-7000/- as his empanelment was made by the Railway Recruitment Board. As in similar circumstances, he was entitled to be absorbed in the same grade. In a few cases those, who have been medically recategorised, have been given alternative jobs, with the same pay scale and the same should not have been denied to the applicant. Ministry of Railway vide their letter dated 20.8.1999 have authorised the General Managers to examine the requests of candidates, who have failed in the medical examination and after empanelled by Railway Recruitment Board for grant of alternative appointment, keeping in mind their suitability. Learned counsel for the applicant points out that this should be given effect to and the Tribunal shall direct the respondents to consider his case.

4. Shri R.R.Shetty, learned counsel appearing for the respondents stoutly points out the plea raised by the applicant and stays that the request being made by the applicant was more in the nature of a public interest and the relief sought for cannot be granted by the

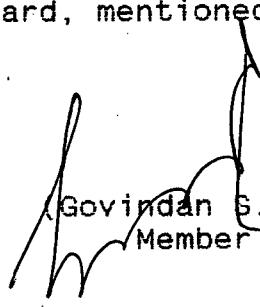
respondents. It will be difficult for the respondents to implement such general directions. OA should, therefore, be dismissed, he urges.

5. I have considered the matter in depth. Under normal circumstances, this case would not have merited any consideration, but keeping in mind the fact that the individual concerned is a highly qualified individual holding M.Sc. Ph.D in Maths - who has been declared as medically recategorised, to consider his case in terms of the directions of the Ministry of Railway in this matter. Under Railway Ministry's directions contained in the letter No.99/E(RRB)/25/12 dated 20.8.1999, General Managers have been given the powers to consider such cases. Obviously as the Ministry felt that such consideration was viable and possible.

6. In view of the above matter, the OA partly succeeds and is accordingly disposed of. General Manager, Western Railway, Mumbai may examine the case of the applicant for any suitable alternate post in the same scale of pay, keeping in mind his academic accomplishments in view of the directions of the Railway Board, mentioned and in accordance with law. No costs.


(K.V. Sachidanandan)
Member (J)

/sunil/


(Govindan S. Tampi)
Member (A)