

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 23-9-87

APPLICATION NO 641 /87()

W.P. NO

Applicant

Shri Hassan Sab

V/s The GM, South Central Railway, Secunderabad
& 2 Ors

To

1. Shri Hassan Sab
C/o Shri G. Shantappa
Advocate
1849 2/A, 1st Floor
2nd Stage, Rajajinagar
Bangalore - 560 010

2. Shri G. Shantappa
Advocate
1849 2/A, 1st Floor
2nd Stage, Rajajinagar
Bangalore - 560 010

3. The General Manager
South Central Railway
Secunderabad (A.P.)

4. The Divisional Personnel Officer
Divisional Office
South Central Railway
Hubli (Karnataka)

5. The Superintendent (Medical)
Railway Hospital
Hubli

6. Shri M. Sreerangaiah
Railway Advocate

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH 3, S.P. Buildings, 10th Cross, Cubbonpet Bangalore - 2

Please find enclosed herewith the copy of ORDER/~~STAY~~/
~~INTERIM ORDER~~ passed by this Tribunal in the above said
application on 11-9-87.

Encl : as above

DEPUTY REGISTRAR

(JUDICIAL)

Received 2 copies

(Advocate for applicant)

RECEIVED

Diary No. 11787/87

Date: 24-9-87

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 11TH DAY OF SEPTR.,1987.

PRESENT:

Hon'ble Mr.Justice K.S.Puttaswamy, .. Vice-Chairman
And
Hon'ble Mr.L.H.A.Rego, .. Member(A)

APPLICATION NUMBER 641 OF 1987

Hassan Sab,
S/o Mallik Sab Nadaf,
Age 33 years,
Occ: Hubli Railway Station,
Hubli, Karnataka State.

.. Applicant.

(By Sri G.Shantappa,Advocate)

v.

1. The General Manager,
South Central Railway,
Secundarabad (A.P)
2. The Divisional Personnel Officer,
Divisional Office,
S.C. Railway, Hubli(Karnataka).
3. The Superintendent (Medical),
Railway Hospital, Hubli.

.. Respondents.

(By Sri M.Srirangaiah,Advocate)

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This application coming on for hearing this day, Vice-Chairman made the following:

ORDER

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act,1985 ('the Act').

2. The facts of this case have been set out in sufficient detail by this Tribunal in A.No.1692/86 filed by this applicant, disposed of on 22-1-1987 and, therefore, they are not re-stated. In the order made on 22-1-1987, this Tribunal directed the respondents as hereunder:

".....In view of all this we direct the respondents to consider the applicant's request for a second medical examination made in his representation dated 17-3-1986 (Annexure-H) and 5-4-1986 (Annexure-I) on merits and convey the decision thereon to him within two months of receipt of this order. If he has already been medically examined a second time the result of the examination should be communicated to the applicant."

In pursuance of this order, the respondents have informed the applicant that on the second occasion also, he had been found medically unfit for the post he was selected.

3. Shri M.Srirangaiah, learned counsel for the respondents has produced the medical certificate issued on the second occasion and the same reads thus:

SOUTHERN RAILWAY

No.MD/84/1/16/9
CPO/SC DRM/UBL

Headquarters Office
Medical Branch
Secundrabad-500 371

Dated 12-3-1985


Sub: Medical Examination of Shri Haran Sahab for appointment as safaiwala MSR's reference.

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The abovenamed has reported to Hubli Railway Hospital on 26-2-1985 for medical examination with a fresh medical Memo from DPO/UBL. Still he is not fit.

For Chief Medical Officer"

On the basis of this certificate, Shri Srirangaiah contends that there is no justification for this Tribunal to direct a further medical examination of the applicant and prolong the litigation. But, Shri G.Shantappa, learned counsel for the applicant contends that the medical certificate certifies the condition of the applicant as on 26-2-1985 and that in the interval that had elapsed from that day to this date there has been an improvement in the condition of the applicant and that he is fit for appointment to the post he was selected.

4. Admittedly, the second medical certificate certifies the



the medical condition as on 26-2-1985. The applicant also appeared before us to-day in person.

5. Whether the claim of the applicant that he is medically fit for appointment or not cannot be examined and decided by us. That question can only be examined and decided by the competent medical authorities of the Railways and not by us. Even otherwise on the peculiar facts and circumstances of this case, we consider it proper to direct a fresh and final examination by the medical authorities of the Railways and decide the case of the applicant for appointment to the post he was selected in 1984 or for such other as may be found suitable.

6. Shri Shantappa submits that the applicant is ready and willing to appear for another medical examination by such Medical Officer to be decided by the Divisional Personnel Officer, Hubli.

7. This matter has been pending for a fairly long time. Secondly, the applicant is struggling hard without an appointment. In these circumstances, it is proper to direct respondent-2 to make arrangements for the medical examination of the applicant with expedition.

8. In the light of our above discussion, we direct respondent-No.2 to arrange for the final medical examination of the applicant by such competent medical officer of the Railways as he may decide with all such expedition that is possible in the circumstances and in any event within 60 days from the date of receipt of this order ^{on} and ^{the} basis of such report consider the case of the applicant for appointment to the post he was selected or for any other post to which he may be found suitable and pass appropriate orders as the circumstances justify in that behalf.

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CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 11TH DAY OF SEPT., 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy, .. Vice-Chairman
And
Hon'ble Mr. L.N.A. Rego, .. Member(A)

APPLICATION NUMBER 641 OF 1987

Hassan Gab,
S/o Mallik Gab Nadaf,
Age 38 years,
Occ: Hubli Railway Station,
Hubli, Karnataka State.

.. Applicant.

(By Sri G. Shantappa, Advocate)

v.

1. The General Manager,
South Central Railway,
Secundarabad (A.P)
2. The Divisional Personnel Officer,
Divisional Office,
S.C. Railway, Hubli (Karnataka).
3. The Superintendent (Medical),
Railway Hospital, Hubli.

.. Respondents.

(By Sri M. Srirangaiah, Advocate)

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This application coming on for hearing this day, Vice-Chairman made the following:

ORDER

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1935 ('the Act').

2. The facts of this case have been set out in sufficient detail by this Tribunal in A.No.1332/86 filed by this applicant, disposed of on 22-1-1987 and, therefore, they are not re-stated. In the order made on 22-1-1987, this Tribunal directed the respondents as hereunder:



".....In view of all this we direct the respondents to consider the applicant's request for a second medical examination made in his representation dated 17-3-1933 (Annexure-II) and 5-4-1933 (Annexure-I) on merits and convey the decision thereon to him within two months of receipt of this order. If he has already been medically examined a second time the result of the examination should be communicated to the applicant."

In pursuance of this order, the respondents have informed the applicant that on the second occasion also, he had been found medically unfit for the post he was selected.

3. Shri M.Srirangaiah, learned counsel for the respondents has produced the medical certificate issued on the second occasion and the same reads thus:

SOUTHERN RAILWAY

No. MD/34/1/16/3
CPO/60 DML/UPL

Headquarters Office
Medical Branch
Secundrabad-500 371

Dated 12-3-1935

Sub: Medical Examination of Shri Naran Sahab for appointment as safaiwala MCR's reference.

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The abovenamed has reported to Hubli Railway Hospital on 26-2-1935 for medical examination with a fresh medical Memo from DPO/UPL. Still he is not fit.

For Chief Medical Officer"

On the basis of this certificate, Shri Srirangaiah contends that there is no justification for this Tribunal to direct a further medical examination of the applicant and prolong the litigation. But, Shri G. Shantappa, learned counsel for the applicant contends that the medical certificate certifies the condition of the applicant as on 26-2-1935 and that in the interval that had elapsed from that day to this date there has been an improvement in the condition of the applicant and that he is fit for appointment to the post he was selected.

4. Admittedly, the second medical certificate certifies the

the medical condition as on 26-2-1935. The applicant also appeared before us to-day in person.

5. Whether the claim of the applicant that he is medically fit for appointment or not cannot be examined and decided by us. That question can only be examined and decided by the competent medical authorities of the Railways and not by us. Even otherwise on the peculiar facts and circumstances of this case, we consider it proper to direct a fresh and final examination by the medical authorities of the Railways and decide the case of the applicant for appointment to the post he was selected in 1934 or for such other as may be found suitable.

6. Shri Shantappa submits that the applicant is ready and willing to appear for another medical examination by such Medical Officer to be decided by the Divisional Personnel Officer, Hubli.

7. This matter has been pending for a fairly long time. Secondly, the applicant is struggling hard without an appointment. In these circumstances, it is proper to direct respondent-2 to make arrangements for the medical examination of the applicant with expedition.

8. In the light of our above discussion, we direct respondent-No.2 to arrange for the final medical examination of the applicant by such competent medical officer of the Railways as he may decide with all such expedition that is possible in the circumstances and in any event within 30 days from the date of receipt of this order on the basis of such report consider the case of the applicant for appointment to the post he was selected or for any other post to which he may be found suitable and pass appropriate orders as the circumstances justify in that behalf.



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